

TERMS AND CONDITIONS OF THE CONTRACT TO AUCTION

1. Owner and Auctioneer agree:

- (a) Owner authorizes Auctioneer to
 - (i) carry out title searches in respect of the Equipment at the expense of the owner, but in no case shall Auctioneer have duty to conduct, nor be responsible for the results of any such title search;
 - (ii) contact creditors to determine amounts claimed against the Equipment;
- (b) Auctioneer may carry out the auction in accordance with its usual procedures, and in particular may group various parts of the Equipment into such lots as it sees fit.
- (c) Auctioneer is constituted as and agent only of Owner and not a principal in the sale of Equipment.
- (d) Auctioneer may, at its sole discretion, in conjunction with the public auction, offer certain lots to internet bidders, using Proxybid online service; however, Auctioneer shall not be liable for any claims or costs arising from its failure to do so.
- (e) Owner shall deliver to Auctioneer ten (10) days prior to the date of the auction: all documents evidencing Owner's title to the Equipment, all documents required to transfer title to the Equipment to any purchaser, properly endorsed and, where ownership of the Equipment or any part thereof is capable of, or required to be, registered, all properly endorsed documents necessary to permit purchaser to register ownership. Owner acknowledges that without such documents the sale price of the Equipment is expected to be less than that obtained fit the documents were provided. Owner nominates and appoints Auctioneer its true and lawful attorney to sign, execute and deliver on its behalf all documents required to transfer title and permit registration of ownership of the Equipment by purchaser thereof in the event that such documents have not been delivered as required;
- (f) Owner shall:
 - (i) be responsible for any loss or damage to the Equipment until the earliest of
 - (A) the removal of the Equipment from the auction site by the purchaser, or
 - (B) receipt by Owner of all proceeds from the sale of the Equipment;
 - (ii) insure the Equipment to its full insurable value against all perils so that in the event of damage to or destruction of the Equipment or any part thereof, all insurance proceeds shall be credited to the gross proceeds of the auction and payment made to Auctioneer forthwith for
 - (A) commission, based on the fair market value as determined by Auctioneer of the damaged or destroyed Equipment immediately prior to such damage or destruction,
 - (B) repayment of all cash advances, if any, made by Auctioneer to or on our behalf of Owner together with interest thereon, and
 - (C) reimbursement of all out-of-pocket costs for refurbishing or repairs done by Auctioneer prior to the damage or destruction; Auctioneer shall not be liable to Owner for the loss, damage or destruction of or to the Equipment, and Owner hereby releases Auctioneer from any claim for costs, damage or expense arising out of such event howsoever caused;
- (g)
 - (i) Auctioneer may make payments on account of any registered or unregistered charges, liens, taxes or other interests claimed by any person or authority in respect of the Equipment, whether or not disclosed on page 1 hereof, in order to clear title to the Equipment, and
 - (ii) Owner shall indemnify and save harmless Auctioneer and any purchasers of the Equipment against any and all loss, costs (including attorney's fees) or damages occasioned by such claims;
- (h) Owner shall not withdraw the Equipment or any art thereof from the auction sale. If Owner is in breach of this provision, in addition to other damages which may be assessed, Owner shall pay to Auctioneer all amounts Auctioneer would otherwise be entitled to pursuant to paragraph 2 hereof, based upon the fair market value of the withdrawn Equipment (as determined by the Auctioneer). If such breach occurs within 40 days of the auction it may damage Auctioneer's business reputation and customer relations and Auctioneer will not be made whole by monetary recompense. In such event, Auctioneer may, as its' sole option, obtain an order for specific performance and Owner will not object;
- (i) Owner authorizes Auctioneer to utilize any part of the Equipment in the setting up of the auction;
- (j) Owner indemnifies and saves harmless Auctioneer against all suits, actions, costs or charges whatsoever arising from any representations contained herein or from any breach of Owner's obligations, including but not limited to, any inaccuracy in the description of the Equipment or any combination resulting from any leakage, spills or malfunction of the Equipment;
- (k) Auctioneer may, if it deems necessary, re-auction any part of the Equipment not sold or not paid for at the auction and Owner hereby acknowledges that no monies shall be payable by Auctioneer in respect of any part of the Equipment until such part of the Equipment has been paid for in full by the purchaser thereof;
- (m) Owner will comply with all laws relating to the sale of the Equipment;
- (n) Auctioneer shall have a lien and charge upon the Equipment and shall be entitled, in addition to all its rights under law, to seize and retain possession of the Equipment as security for, and/or sell the Equipment to recover, all sums owing to Auctioneer hereunder. Auctioneer shall have the right as its sole option, to register such lien under any personal property security or other laws as may be in effect;

2. Owner irrevocably assigns to Auctioneer all amounts due pursuant to this Contract and Auctioneer shall apply all amounts collected from the sale of the Equipment as follows:

- (a) As payment to, and reimbursement of, the Auctioneer for those amounts allowed by this Contract;
- (b) For payments to lien holders or other as allowed by 1 (g) (i) and/or 1 (g) (ii) above;
- (c) Balance, if any will be mailed to the Owner, by prepaid post or as otherwise instructed in writing, on or before the twenty-first (21st) day following the auction.

3. The Auctioneer shall have the right, at its discretion, to (i) withdraw from this Contract and its obligations hereunder shall be unenforceable by Owner, or (ii) rescind the sale of the Equipment to a purchaser in whole or in part if there is insufficient equity in the Equipment to pay those amounts allowed by this contract or the Owner is in breach of any of its representations and warranties hereunder; however, notwithstanding the foregoing, in the event the Equipment is sold, Owner shall pay to Auctioneer any deficiency arising in the event gross proceeds collected from the sale of the Equipment are insufficient to allow payment of those amounts.

4. Should Auctioneer be required to participate in any action to either enforce the terms of this Contract or as a result of other activities of Owner, Auctioneer shall be entitled to recover all its costs including lawyer's fees.

5. Owner authorizes Auctioneer to use Owner's name, trademark or logo in advertising the auction.

6. This Contract, which may be amended only in writing, constitutes the entire agreement and takes the place of prior contracts or understandings between the parties and insures to the benefit of and is binding upon their heirs, executors, administrators, successors and assigns.

7. This Contract is subject to and shall be determined both in and under the laws of the State in which the auction occurs.

8. Information provided in this Contract shall be retained by the Auctioneer in accordance with its formal Privacy Statement available at www.bidmacauctions.com.

9. Receipt by Auctioneer via facsimile of a signed copy of this Contract shall, upon acceptance by Auctioneer, be considered binding on both parties.

I solemnly declare that I am (the agent of) the Owner of the Equipment set out on reverse hereof and as such have knowledge of the matters set out in this Contract to Auction and that the representations and warranties made herein are accurate, complete and have been made for the purpose of inducing the Auctioneer to accept the engagement for the sale of the Equipment.

Made this _____ day of _____, 20 _____

at _____ in the state of _____

(Signature)

(Print Name)

