

## BIDITUP AUCTIONS WORLDWIDE, INC. TERMS AND CONDITIONS

**THIS AUCTION WILL BE CONDUCTED PER THE TERMS AND CONDITIONS LISTED BELOW PLUS ANY OTHER PROVISIONS ADDED BY BIDITUP (auctioneer) AT ANYTIME OR AS POSTED ON [WWW.BIDITUP.COM](http://WWW.BIDITUP.COM)**

1. Registration: BIDITUP, at its sole discretion, may deny registration to any person or entity.
2. Any and all announcements made by the Auctioneer on the day of the auction sale shall supersede any other written or oral information previously distributed.
3. Auctioneer and seller make no representations, warranties, promises, covenants or guarantees, expressed or implied, as to defects in or the completeness or accuracy of the description in any advertising of any item(s) being auctioned and is not responsible for any advertising discrepancies or inaccuracies of any kind. All items are sold on an AS IS, WHERE IS AND WITH ALL FAULTS BASIS WITHOUT EXCEPTION and WITH REMOVAL AT BUYERS SOLE RISK AND EXPENSE. THE AUCTIONEER AND SELLER MAKE NO REPRESENTATIONS, WARRANTIES, PROMISES, COVENANTS OR GUARANTEES OF ANY KIND, EXPRESSED OR IMPLIED, AS TO THE NATURE, QUALITY, DURABILITY, CAPABILITY, FUNCTION, PERFORMANCE, VALUE OR CONDITION OF THE ITEM(S) BEING AUCTIONED OR ITS (THEIR) SUITABILITY FOR ANY USE. THE AUCTIONEER AND SELLER EXPRESSLY AND SPECIFICALLY DISCLAIM, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. The undersigned hereby waives, releases, remises, acquits and forever discharges the Auctioneer and seller, and their respective employees, agents, or any other person acting on behalf of the Auctioneer and seller, of and from, and shall indemnify and hold the Auctioneer and seller, and their respective employees, agents, or other persons acting on behalf of the Auctioneer and seller from and against any claims, actions, causes of action, demands, rights, damages, costs, expenses or compensation whatsoever, direct or indirect, known or unknown, foreseen or unforeseen, which the undersigned now has or which may arise in the future on the account of or in any way growing out of or connected with any defects, latent or otherwise, or the physical condition of any item(s) purchased or any law or regulation applicable thereto. The undersigned specifically waives the provisions of California Civil Code section 1542, which provides: "A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."
4. The Auctioneer and seller encourage the undersigned to avail itself of the opportunity to make inspections prior to bidding and/or purchasing. The undersigned hereby acknowledges that it has inspected or voluntarily waived said inspection of all of the items upon which it will be bidding and/or does purchase. Auction sales are subject to cancellation and items are subject to prior sale. The seller's secured creditors must confirm all sales. The Auctioneer and seller reserve the right to augment this auction with items from additional sellers. These items may be interspersed and not specially identified throughout the auction sale.
5. The Auctioneer shall regulate all matters relating to the conduct of the auction and the Auctioneer's decisions shall be final and binding on all bidders. The Auctioneer reserves the right to group, regroup, reduce, add to or delete lots as well as accept or reject any or all bids at the Auctioneer's sole discretion. The Auctioneer also reserves the right to offer any or all of the items in bulk at any time during the auction at the Auctioneer's sole discretion. The Auctioneer shall determine the bidding increments and the Auctioneer and/or seller may bid on any item(s) to protect its financial interest or indebtedness at its sole discretion. Some items may be auctioned with reserve, subject to the seller's right of confirmation. Immediately upon knockdown and the Auctioneer has declared the undersigned to be the purchaser, all items comprising of the lot become the sole and absolute responsibility of the undersigned and the undersigned shall thereupon and thereafter assume all risk of loss (including, but not restricted to loss by way of theft or damage) and liability relating to such items. The undersigned is advised to pre-arrange insurance coverage for its purchases. Title to and possession of the lot shall not pass to the undersigned until the Auctioneer has received payment for all lots duly purchased in full. PLEASE NOTE: ON-SITE BIDDERS and INTERNET BIDDERS will be charged a Buyer's Premium. Please check each sale for the Premium to be charged.
6. On the day of the auction (unless otherwise announced) all purchases must be paid in full (No exceptions) by cashiers check, or bank wire made payable to the Auctioneer. Credit cards are not accepted. A fee will be charged by the auctioneer for wire transfers. Personal and company checks will be accepted at the Auctioneer's sole discretion, only if accompanied by a letter of guarantee by payers bank guaranteeing unqualified payment to Auctioneer for the total amount of purchase. Auctioneer must approve all payment methods in its sole and absolute discretion prior to bidding. The Auctioneer reserves the right to determine, in the sole judgment of the Auctioneer, the validity of all cashier checks and letters of guaranty. Wire transfer information for payments to the Auctioneer is set forth below. If for any reason the undersigned fails to pay the purchase price within the time limit set forth in the catalog or announced by the Auctioneer at the sale and/or fails to remove 100% of its purchases on or before the date and time announced by the Auctioneer prior to bidding during the opening announcements, and/or fails to comply with any other conditions or term of sale, such item(s) will be considered abandoned and the Auctioneer may resell at public or private sale without further notice, or otherwise dispose of any and all of such items and the undersigned hereby agrees to pay any deficiency and all removal and other costs relating to such resale together with all charges, legal fees, interest and expenses in connection with such sale or disposition, plus a \$500.00 per diem fee per item until such item(s) is (are) removed. The undersigned further agrees that the Auctioneer and/or seller may retain all monies received pursuant to any such resale and apply such monies to any such deficiency without further notice. No claim will be considered for allowance or rescission of any sales based upon failure of the property to correspond with any standard expected. **Note to Internet Bidders: Final payment information will be provided in a separate invoice within 48 hours following the auction. Payment must be received in full within 24 hours of receipt of invoice.**
7. Applicable sales tax will be added to the purchase price and the buyer's premium of all taxable auction items. The undersigned shall provide proof satisfactory to the Auctioneer of its entitlement to claim exemption from sales tax, which proof must be representative of the same industry as the item(s) that are purchased. In the absence of proof satisfactory to the Auctioneer, the buyer shall pay all taxes. The Auctioneer or seller will not be responsible for any penalties regarding registration fees or smog certificates related to motor vehicles. Certain vehicles as announced and/or noted on buyers invoice will be sold "AS IS" with a Bill of Sale only, excluding a Department of Motor Vehicles Title or Pink Slip.
8. The Auctioneer or seller shall in no event be liable to the purchaser for non-delivery of any item(s) for any reason except for the return to the buyer of the deposit or other sums paid for such non delivered items. This non-delivery period extends from the fall of the hammer until the time allotted for the removal process concludes. In no event will the Auctioneers or sellers liability to the undersigned exceed the amount actually paid by the undersigned. **THE UNDERSIGNED HEREBY ACKNOWLEDGES AND AGREES THAT THE AUCTIONEER AND SELLER SHALL NOT BE LIABLE FOR SPECIAL, CONSEQUENTIAL OR INCIDENTAL DAMAGES.**
9. Bidder's paddles are nontransferable. All bids made by the holder of the paddle will be the responsibility of the registered bidder. A successful bid at auction constitutes a legally binding contract of sale. All sales are final! No refunds, returns or exchanges! **NO EXCEPTIONS!**
10. The Auctioneer reserves the right to remove any person from the auction site and refuse that individual's bid or proxy bid. In the event of such removal any outstanding deposit will be immediately returned.

### **TERMS AND CONDITIONS FOR DISCONNECT AND REMOVAL:**

**All electrical disconnect, rigging, loading, removing, broom cleaning, trash & debris removal and transportation are the sole and absolute responsibility of the undersigned. The undersigned agrees to remove its purchases in full, with no abandonment privileges, from the premises on or before the date and time announced by the Auctioneer prior to bidding during the opening announcements. NO EXTENSIONS WILL BE GRANTED. ALL REMOVAL MUST BE BY APPOINTMENT. AUTHORIZED RIGGERS AND CONTRACTORS ONLY. NO SOLICITING.**

1. The undersigned must present the original gold removal copy of the customer invoice to the Auctioneers personnel prior to the removal of any item.
2. No item(s), no matter how small, may be removed while the auction is in progress. Representatives of the Auctioneer at the auctioneer's sole discretion may stay one hour after the auction is completed for the removal of small items. All small items must be removed by 4:00 pm on the day following the auction.
3. The undersigned must present the Auctioneers personnel with a valid commercial general liability insurance certificate in a minimum amount of \$1,000,000.00 combined single limit per occurrence coverage naming the Auctioneer as additional insured. If available, bridge cranes and hoist may be used only by the undersigned if crane insurance is included on their certificate and only with the written permission of the crane owner. In addition, the undersigned must provide the Auctioneer proof of workers compensation insurance.

4. Should any pits, floor bolts or hazards of any type exist after removal of equipment, it is the responsibility of the undersigned, at its cost, to guard these areas using generally accepted safety practices, such as safety tapes, pipes or bars welded in place or suitable safety barriers acceptable to the Auctioneer. All floor bolts and/or anchoring fasteners are to be cut flush to the floor and the area left broom clean and all debris removed. It is the responsibility of the undersigned to be sure that the power to the item(s) is off and then to safely disconnect all electrical wiring and utility piping from the item(s) and to cap at the first electrical or air junction of the item(s).
5. Item(s) are to be staged for loading in the area assigned by the Auctioneer's personnel.
6. It is the undersigned's responsibility to secure all safety equipment to meet all applicable government safety standards in using or removing any items purchased. Certain items may contain residual chemicals and/or hazardous materials. The undersigned hereby agrees to indemnify and hold harmless the Auctioneer and seller from any and all damages, claims or liabilities from any injuries to persons or property of any type whatsoever caused by the undersigned, its agents, employees or contractors during the sale or during the removal, use or operation of the purchased item(s). Any hydraulic fluid removal and/or oil leaks are the undersigned's responsibility to remove and clean up. The undersigned must take full responsibility for compliance with applicable environmental laws and exercise all reasonable care to ensure that there is no release to the environment of any hazardous wastes or substances as defined in applicable Federal, State and Local Statutes, Regulations, Rules or Ordinances.
7. No trucks are to be left running in an enclosed building. The Auctioneer is not liable for personal belongings left on premises.
8. Any surface or structural damage to the premises including but not limited to the walls, ceilings, floors, overhead doors, gates and/or any other item(s), etc. will be the undersigned's sole responsibility. The undersigned will not be permitted to leave with its purchases until repairs are made.
9. Theft will not be tolerated and Auctioneer reserves the right to inspect all trucks, toolboxes and rigger cases, etc. Instances of theft will result in immediate termination of removal privileges and full prosecution by law. All quantities must be checked prior to removal, as adjustments will not be made thereafter.
10. These terms and conditions together with any amendments or modifications, expressly made by the Auctioneer at the time of the auction constitute all the terms and conditions with respect to the sale of items at this auction. There are no representations, warranties, terms, conditions, undertakings or collateral agreements except as hereinabove provided. If any dispute arises under this Agreement, it shall be subject to mandatory mediation before a single mediator in Los Angeles, CA, in accordance with the then current Commercial Mediation Rules of JAMS, commencing as soon as reasonably practicable after the appointment of the mediator. Efforts to reach settlement shall continue until a written settlement is reached, the mediator notifies the parties that further efforts will not be productive, or the parties agree in writing that an impasse has been reached. If for any dispute under this Agreement any party commences arbitration or other proceeding without first attempting to resolve the matter through the foregoing procedure, then that party shall not be entitled to recover attorney's fees even if they otherwise would be available to that party in any such arbitration or proceeding. Any such dispute, which has not been resolved as a result of the mediation, shall be resolved by final and binding arbitration in Los Angeles, CA, in accordance with the rules and regulations of the American Arbitration Association then in effect, by an arbitrator with knowledge of the auction business. Any such arbitration shall be instead of any civil litigation and the arbitrator's decision shall be final and binding to the fullest extent permitted by law and enforceable by any court having jurisdiction thereof. Each party shall split the costs of the mediation or arbitration, including filing and hearing fees, and each side shall bear its own attorneys' fees, except the arbitrator shall be authorized to award to the prevailing party in such arbitration (as determined by the arbitrator) all of the prevailing party's actual costs and expenses of arbitration, including attorney's fees, court costs, costs of investigation, and other costs related to such proceeding, in the amount determined by the arbitrator.