



FLEMING & COMPANY, LLC

AUCTIONEERS

License # AU-3742/AB-2736

CONTRACT TO AUCTION

SELLER: _____

Address: _____

AUCTIONEER: FLEMING & COMPANY, LLC AUCTIONEERS

Address: 11636 Davis Creek Rd., E
Jacksonville, FL 32256

1. Statement of Employment. Seller hereby employs Auctioneer to sell the property described in Schedule A annexed to and incorporated in this Agreement, herein referred to as Seller's property, at public auction.

2. Place of Sale. The auction sale shall be held at _____

3. Time of Sale. The auction sale shall be held on _____

4. Delivery of property. Seller will deliver the property to the auction site on or before _____

5. Seller authorizes Auctioneer:

Motor Vehicles and Construction Equipment

(a) To supply fuel, batteries and tire repairs as Auctioneer determines necessary for the demonstration of the sale of the property. All costs incurred shall be at the expense of and paid by the Seller.

Choose from 3 options:

- No repairs
- Contact Seller prior to repairs
- Make minor repairs

(b) To supply parts, glass and to carry out work such as welding, steam cleaning, sandblasting, painting and other refurbishing on Property deemed necessary to auction such Property. All costs shall be at the expense of and paid by the Seller, provided however, that the liability of the Seller pursuant to this paragraph shall not exceed the sum of \$_____. All costs and expenses incurred by Auctioneer under this paragraph 5 shall be for the account of Seller and shall constitute a lien against the Property until Seller satisfies the lien in full.

(c) Carry out title searches in respect of the Property at the expense of the Seller, but in no case shall the Auctioneer have a duty to conduct, nor be responsible for the results of any such title search.

(d) Contact Creditors to determine amounts claimed against the Property.

Seller and Auctioneer agree:

(a) Seller shall deliver to Auctioneer ten (10) days prior to the date of the auction: all documents evidencing Seller's title to the Property, all documents to transfer title of property to the purchaser, properly endorsed. Seller 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 Property by purchaser thereof in the event that such documents have not been delivered as required.

(b) 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 Property, whether or not disclosed in Schedule A hereof, in order to clear the title. Seller shall indemnify and hold harmless Auctioneer and any purchasers of the Property against any and all loss, costs (including attorney's fees) or damages associated by such claims.

(c) Auctioneer shall have a lien and charge on the Property and shall be entitled, in addition to all its rights under law, to seize and retain possession of Property as security for, and/ or sell Property to recover, all sums owing to Auctioneer hereunder. Auctioneer shall have a right to register such lean under any personal property security or other laws as may be in effect.

(d) Neither Seller, nor agent of Seller, nor any person, or corporation affiliated with, or for the benefit of Seller, shall bid on Property at the auction. In the event the Seller is in violation of this provision, the equipment shall not be deemed sold. The property will be re-auctioned to the highest bidder.

6. Owner represents and warrants:

(a) Property is in a safe condition, in good running order, free of hazardous materials and never contaminated with hazardous materials.

(b) Property is accurately described as in Schedule A.

(c) Seller is, and to the date of the auction will be, the owner of record, and will not on the date of the auction be, subject to any claim by any person or to any registered or unregistered charges, liens, or interests of any nature except as fully set out in Schedule A.

(d) Property is not subject to the collection or attraction of any taxes, liens or claims of any authority of competent jurisdiction of any kind or nature, notwithstanding any past, present or future use, to which the property may have been, presently is or hereafter will be put.

7. Duties and Obligations of Auctioneer. Auctioneer shall carry out the following duties and obligations, pursuant to the sale of Seller's Property under this Agreement:

(a) Advertising. Auctioneer shall advertise the auction sale of Seller's property according to the custom and usage of the business.

(b) Employment of Help. Auctioneer shall employ help reasonably necessary to effectuate sale and delivery of Seller's property to buyers of such property at the auction sale.

(c) Sale with Reserve. Auctioneer shall represent and conduct the auction sale as an auction with reserve. The reserve amount will be predetermined by Seller and Auctioneer and is included in Schedule A hereof.

(d) Use of Best Efforts. Auctioneer shall conduct the auction sale to the best of his ability. However, Auctioneer does not guarantee a sale and Auctioneer is not responsible in the event buyer and Seller fail to live up to their agreement, or in the event of non delivery of property by Seller to buyer.

(e) Property Remaining Unsold. A No Sale Fee will be charged in the event the property is not sold, calculated on the reserve price of the property provided by the seller and based on (a) \$1 through \$35,000 fee of \$250 and (b) \$35,001 or more a fee of \$500. Auctioneer shall notify Seller of any property remaining unsold at the completion of the sale and shall thereafter await the instructions of Seller, provided that Auctioneer shall receive such instructions within five (5) days after the date of sale. Thereafter, in the event Auctioneer receives no instructions, Seller's property may be stored by Auctioneer at Seller's expense, at the sole risk of Seller.

8. Authority of Auctioneer. Auctioneer is hereby empowered to do the following on Seller's account, pursuant to the sale of Seller's property under this Agreement:

(a) Prohibition against Warranties. Auctioneer is prohibited and disabled from giving any warranty as to quality or description of Seller's property.

9. Purpose. Auctioneer accepts this employment according to the terms of this Agreement and will perform same to the best of his ability.

10. Authority of Seller. Seller hereby reserves the right to control the details of the conduct and enforcement of the auction sale in the following matters:

(a) Warranties. Seller may give any warranty as to quality or description of Seller's property that he may deem appropriate.

(b) Bids. Seller may prescribe the mode of bidding at the auction sale so that no bid that is less than the reserve price described in Schedule A shall be considered. Tentative bids may be submitted in advance for any and all of Seller's property. Such bids shall be placed in the hands of Auctioneer and shall not be binding, except that the highest of such bids will automatically be considered the opening bid for the item, provided that it at least equals the above-stated reserve price. Bids may be entered in person, in writing, by telegraph, internet or by telephone. During the auction sale, each bid shall be required to be at least \$1.00 over the preceding bid and in no case less than the reserve price stated. Seller may not bid at the auction sale.

(c) Disputed Bids. The Auctioneer will use his discretion as to how to solve disputed bids. If a dispute cannot be solved between the parties involved he may resubmit Seller's property to competitive bidding.

11. Cooperation by Seller. Seller shall in all respects cooperate with and further the interests of Auctioneer in discharge of his duties under this Agreement as required by statute and by this Agreement, and shall refrain from all acts that would reasonably tend to interfere with Auctioneer in discharge of his duties under this Agreement or as required by statute.

12. Compensation of Auctioneer. (a) Commission on Property Sold. In consideration of performance of this Agreement, Auctioneer shall receive, and Seller shall pay, as per commission structure set out in Schedule B annexed to and incorporated in this Agreement, of the total amount realized from sale of Seller's property.

13. Expenses. Seller and Auctioneer shall be liable for the following expenses.

(b) Advertising. Auctioneer shall be liable for the expense of advertising the auction sale as required under this Agreement.

(c) Delivery of Property to Auctioneer. Seller shall be liable for the expense of delivering Seller's property to Auctioneer as required by this Agreement. Seller is also responsible for the expense to collect unsold property within five (5) days after date of Auction. Storing fees will apply after the seven (7) days as referred to in point number four (7) paragraph (e).

(d) Insurance. Seller shall insure the Property to its full insurable value so that in the event of damage or destruction of the Property or any part thereof.

14. Choice of Law. This Agreement, and all suits and special proceedings hereunder, shall be construed in accordance with and under and pursuant to the laws of the State of Florida, and in any action, special proceeding, or any other proceeding that may be brought arising out of, in connection with, or by reason of this Agreement, the laws of the State of Florida shall be applicable and shall govern to the exclusion of the law of any other forum, without regard to the jurisdiction in which any such action or special proceeding may be instituted.

I solemnly declare that I am (the agent of) the owner of the Property set out in Schedule A of the agreement and that 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 Property.

IN WITNESS WHEREOF, the Parties have agreed and executed this Agreement on this ____ day of _____, 2008.

SELLER _____ AUCTIONEER _____

Witness _____ Witness _____