

AUCTION AGREEMENT
MARTIN & MARTIN AUCTIONEERS, INC.
1618 Easley Highway, Pelzer, SC 29669
864-947-7888 864-947-7846 (fax)

SELLER (To appear on check): _____

Contact Person: _____ Fed. ID# or S.S.#: _____

Address: _____

City, State, Zip: _____

Phone: _____ Fax: _____ Email: _____

Auction Date: _____ Auction Location: _____

Seller hereby retains, authorizes, and directs Martin and Martin Auctioneers, Inc. (hereinafter referred to as Auctioneer) to arrange for and to conduct a public auction of the following items of property (hereinafter referred to as the Property) on the date and at the location noted above and pursuant to the Terms and Conditions as noted on the reverse side of this form:

Listing - Item 1	
Year _____	Make _____ Model _____
Machine Type _____	VIN or SN _____
Additional Description _____ _____	
Mileage _____	Hours _____
Lien Information (if applicable): _____ _____	

Listing - Item 2	
Year _____	Make _____ Model _____
Machine Type _____	VIN or SN _____
Additional Description _____ _____	
Mileage _____	Hours _____
Lien Information (if applicable): _____ _____	

Additional listing items, if necessary, are described on the attached Schedule A.

Seller acknowledges that it has read, understood, and agrees to abide by all Terms and Conditions in this agreement.

Seller Date Martin & Martin Auctioneers, Inc. Date

Except as noted in the Terms and conditions on the reverse side of this form
THIS AGREEMENT IS SUBJECT TO ARBITRATION IN ACCORDANCE WITH THE
SOUTH CAROLINA UNIFORM ARBITRATION ACT.

TERMS AND CONDITIONS

1. GENERAL

- a. This Agreement is entered into by and between the above described Seller and Martin & Martin Auctioneers, Inc. ("Auctioneer").
- b. Seller hereby retains, authorizes, and directs Auctioneer to arrange for and to conduct a public auction of the items of property described in the listings section of this form along with any attached Schedule A (if applicable) (herein referred to as the "Property").

2. SELLER'S WARRANTIES AND REPRESENTATIONS

Seller hereby represents and warrants as follows:

- a. The Property is **accurately and completely described**.
- b. Unless otherwise specified, the odometer and hour meter readings (if applicable) on all of the Property is correct.
- c. Seller is the legal owner of the Property with full right and authority to sell such Property.
- d. A complete and accurate list of all parties having any claim or lien on or against the Property is included on the listing sheet(s). Except as specified in the listings section and/or Schedule A, the Property is **free and clear of all liens, encumbrances, or claims** by any other person or entity. Auctioneer may deduct from the sale proceeds amounts necessary to release liens, claims, or other encumbrances on or against the equipment. If proceeds are insufficient to obtain releases, seller will immediately pay the additional amount necessary.
- e. **Auctioneer is acting as agent for Seller only.**

3. SELLER'S DUTIES

Failure on the part of the Seller to abide by any of the Seller's Duties including but not limited to the duties listed in Item 2. above, will be considered a breach this agreement and will give the Auctioneer, at his sole discretion the right to remove some or all Property from the auction and collect from Seller any and all applicable fees. The inclusion or removal of any Property by Auctioneer shall not abridge, modify or waive any rights Auctioneer has under this agreement.

- a. Seller **shall deliver & offer for sale each & every piece of Property** to the Auction Location on or before **three days prior to the Auction Date @ 12:00 noon, along with all documentation** including titles and bills of sale, evidencing Seller's title and ownership in the Property. Failure to deliver all documentation as provided for above, does not prevent Auctioneer at his sole discretion from removing or including the Property in the Auction.
- b. Seller shall **be present** at the Auction Location on the Auction Date to represent the Property. Auctioneer assumes no responsibility for ensuring Seller is present at the auction and has no responsibility for the price the Property may sell for at the Auction.
- c. **Seller shall maintain insurance against loss and/or damage to the Property.** Seller acknowledges and agrees that all risk of loss or damage to the Property will remain with the Seller until proceeds from its sale are received by Seller.
- d. **Seller assumes responsibility for all repairs, improvements, cleaning and/or painting** of the Property until Property is sold at auction. Auctioneer assumes no responsibility for the condition of the Property after delivery or at anytime thereafter. Seller acknowledges that the condition of an item may affect the selling price of the Property at auction. Seller agrees that Auctioneer has the right to service the vehicle prior to the auction to assist in the sell of the property. Such services include but are not limited to adding fuel, replacing a battery, or pressure washing the Property. Auctioneer may charge its costs on parts or fuel plus 20% and labor charges at \$50/hour. Seller agrees to be responsible for such charges and the payment thereof as provided for in Item 5.d. below.
- e. In the event all or a portion of the Property is not sold at auction as provided herein, **Seller shall remove unsold Property from the Auction Location within ten (10) days of the Auction Date.** Failure to remove the Property acts as consent by Seller for Auctioneer to sell said Property at Auctioneer's next available auction upon such terms as Auctioneer deems appropriate. Any charges by Auctioneer as set forth in Item 3.d. above must be paid in full before any Property is removed from the Auction Location.

4. AUCTIONEER'S DUTIES

- a. Auctioneer shall arrange for, advertise, and conduct a public auction sale of the Property at the Auction Location and Auction Date indicated on the reverse side.
- b. Unless otherwise specified herein, Auctioneer shall pay all cost and expenses of advertising, auctioning, clerking, and cashing incurred in connection with conducting the auction sale.

5. TERMS OF SALE AND AUCTION COMMISSION

- a. Seller agrees that each and every piece of Property listed on the listing sheet(s) will be offered for sale at the specified Auction Date and Auction Location **in accordance with the Auctioneer's usual practices and procedures.** The lotting and grouping of the Property sold and the order in which it is to be sold shall be in the absolute and sole discretion of the Auctioneer.
- b. Auctioneer will collect a **10% (ten percent) buyer's premium** on all items selling for \$1000.00 or less. It is agreed that the buyer's premium shall be additional compensation to the Auctioneer and Seller shall have no right to payment of any portion thereof and the buyer's premium shall have no effect on the commission to be paid to Auctioneer pursuant to 5 (c) below.
- c. **Seller agrees to pay Auctioneer for its services commission(s) as follows:**
 1. **15%** of sales price per item of Property selling for **\$1000.00 or less.**
 2. **12%** of sales price per item of Property selling for **more than \$1000.00.**The minimum commission or fee is **\$100.00** per item of Property even if the Property does not sale ("No Sale"). In addition to other commissions due Auctioneer there will be a **\$100.00 title fee** for any title not delivered to Auctioneer in accordance with Item 3.a. above where the Auctioneer has exercised its discretion and auctioned the Property.
- d. **Auctioneer will pay Seller net proceeds** on or before **14 banking days after the auction** proceeds are collected and liens are released. Net proceeds are the gross sales price less commissions due pursuant to 5(c), liens, and other charges incurred in accordance with this agreement. Auctioneer will only pay net proceeds on Property where proceeds have been collected, and Auctioneer will owe nothing to Seller should Auctioneer for any reason not be able to collect proceeds from a sale. If applicable, Auctioneer reserves the right to withhold the payment of the net proceeds of the Property sold by Seller until Seller pays in full any amount due to Auctioneer on items purchased by Seller.

6. INDEMNIFICATION OF AUCTIONEER

Seller hereby agrees to indemnify and hold harmless Auctioneer against all suits, actions, costs, or charges, including but not limited to attorney's fees, arising from or relating to the sale, storage or servicing of the Property including, but not limited to, any false or incorrect representations or warranties contained herein or for any breach of the Seller's obligations herein, including inaccuracies in the description of Property or the condition of Property. Auctioneer may join Seller in any suit brought by a third party against Auctioneer arising out of claims relating to the Property in lieu of arbitration

7. MISCELLANEOUS

- a. This agreement, which may be amended in writing only signed by the parties, represents the entire agreement between Auctioneer and Seller, and takes the place of all prior agreements.
- b. **GOVERNING LAW** - This agreement shall be interpreted in accordance with and governed by the laws of the state of South Carolina, to include, but not limited to, the Uniform Commercial Code, as adopted in South Carolina.
- c. **ARBITRATION AND VENUE** - **Except as noted in Item 6. above, any controversy or claim arising out of or relating to this agreement or any breach thereof shall be settled by binding arbitration** in accordance with the South Carolina Uniform Arbitration Act (S.C. Code § 15-48-10 et seq.) and shall be instituted and maintained in Anderson County, South Carolina. It is also the expressed intention of the parties that any and all suits for any and every claim arising out of or connected to a breach of this agreement or challenge to the arbitration proceedings or award shall be instituted and maintained in Anderson County, South Carolina or any other place to which Auctioneer expressly consents in writing.
- d. Seller agrees to pay all costs, including, but not limited to, attorney fees, incurred by Auctioneer should any action need be taken by Auctioneer to enforce the terms of this agreement.

8. ADDITIONAL TERMS: