



CONSIGNMENT TERMS & CONDITIONS

Wheeler Auctions
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CONSIGNOR TERMS AND CONDITIONS

The following Consignor Terms and Conditions are incorporated as a material part of this Consignment Contract.

1. Wheeler Auctions, hereinafter referred to as "WA", agrees to pay the costs of the auctioneers, the advertising, and the auction sale facility, clerks, cashiers, and necessary sale help. In consideration therefore, Seller/Owner, hereinafter referred to as "Seller", gives WA the exclusive right to auction or otherwise market and sell the Vehicle until thirty (30) days after the auction date and agrees to pay WA the commissions for any sale occurring within thirty (30) days of the auction. Seller acknowledges and accepts that WA cannot accurately predict sale time and/or sale prices and any predictions by WA with respect to the foregoing shall be considered estimates only and shall not be binding upon WA. Furthermore, WA makes no representations or warranties as to the ability of any buyer to perform. Seller agrees that WA shall not be liable to Seller in the event of a default by any buyer.
2. Seller warrants that Seller is the sole and only owner of the Vehicle(s), has the right to sell the Vehicle and has clear title or consent of the lienholder, if any, to sell the Vehicle. Seller has provided WA with all correct and current lienholder information, including name and amount, in advance of sale. Seller agrees to provide Buyer with merchantable title to the Vehicle and agrees to correct any title defects and pay for the costs associated with providing Buyer with good, clear and merchantable title to the Vehicle as required by the state where Buyer seeks to register the Vehicle.
3. Seller acknowledges that the information it has provided regarding the history, authenticity and originality of the Vehicle history will be used by WA to market and advertise the Vehicle for sale, that said Vehicle Information is true and accurate and that WA is relying on Seller's representations of the vehicle information and WA has not independently verified same. Seller hereby agrees and consents to the publication of photographs of the Vehicle and Vehicle Information & any promotional materials for any current or future auction conducted or produced by WA and further agrees that any Vehicle photographs supplied by Seller shall become and remain the property of WA.
4. Seller agrees and consents to the sale of the Vehicle subject to the terms, conditions and commissions as stated herein and the Purchase Invoice and Bill of Sale, the terms and conditions of which are incorporated herein, and any other terms and conditions of the sale of the Vehicle. Seller authorizes WA to release the Vehicle to the Buyer and agrees to rely only upon the Buyer for payment, thereby releasing WA from any and all legal obligations for collection of any purchase price, attorney's fees and costs and/or expenses connected with sale of the Vehicle. If, as a convenience either to Buyer or Seller, WA should issue payment to the Seller on behalf of the Buyer, the payment can be withheld, withdrawal, cancelled or revoked at any time at WA's discretion until proper, good and acceptable funds are received by WA from the Buyer, and the Vehicle may or may not be withheld from the Buyer pending receipt by WA of such funds.
5. Payment for the Vehicle is to be immediate and made directly by the Buyer to WA. Payment of the Commission as set forth herein and in the Purchase Invoice and Bill of Sale is to be immediate and made directly by Seller (or by Buyer as may be agreed to by Seller and Buyer) to WA or WA may reduce any amounts owed to Seller by the amount of commission. WA shall pay the purchase price of the Vehicle as set forth in the Purchase Invoice and Bill of Sale to the Seller within thirty (30) days of the receipt by WA of full payment from the Buyer, less any amounts owed by Seller to WA. Proceeds sufficient to satisfy any existing debt or obligation (whether or not related to the sale of the Vehicle) contemplated by this Consignment Contract owed to WA by Seller may be withheld by WA at WA's discretion.
6. WA, may at its discretion, acting as agent for the Seller, cancel or rescind the sale of the Vehicle if WA determines or has reason to believe that the offer for sale has or may subject WA, the Seller or both to any liability including, but not limited to, liabilities due to representations made by the Seller or due to insufficient title or authority. In the event of such cancellation, WA, as agent, shall have the right to refund or credit the full purchase price to the Buyer. In the event that the Seller has received all or part of the proceeds, the Seller agrees to refund such amounts. Seller also agrees to accept return of the Vehicle, as full and complete settlement of any and all claims Seller may have against WA or any such liability or potential liability. Seller agrees to be responsible for and pay any costs incurred with respect to the return of the Vehicle including transportation costs.
7. Seller agrees that WA shall have no liability for loss, theft or damage of any type to the Vehicle, its contents, or components at any time and that WA is not a bailer of such Vehicle. Seller further agrees to indemnify and hold WA, its agents, owners, directors, shareholders, representatives, and employees harmless from and against any claims for personal injury and property loss or damage arising out of this transaction. Seller hereby represents that the Vehicle is currently insured and that Seller shall maintain its own insurance on the Vehicle throughout the duration of this Agreement, and until the closing of the sale of the Vehicle to a buyer under the Purchase Invoice and Bill of Sale. WA provides no such insurance and is not an insurer of any vehicle or other article offered for sale. Seller hereby grants permission for WA, its employees, representatives or agents to drive or move the Vehicle before, during or after the sale of the Vehicle. Seller represents and warrants that the Vehicle is in a safe and operable condition to be driven by employees, representatives or agents of WA.
8. The party executing this Consignment Contract warrants that they have the authority to bind the Seller to its terms. All Vehicles are sold "AS IS WHERE IS," with no warranties or guarantees.
9. Seller represents that all of Seller's statements and claims with respect to the Vehicle are true and correct, and Seller has not withheld from disclosure any material problems, flaws or discrepancies with regard to the Vehicle. Seller shall provide WA written notice describing any title "branding" issues, including, but not limited to, the salvage, previously salvaged, or rebuilt condition of the Vehicle. The Seller shall provide an accurate odometer statement as required by law and shall be solely responsible for any inaccuracies with respect therein. Seller agrees that Seller or any agent or employee or independent contractor hired by Seller has not tampered with the odometer on the Vehicle.

SELLER ACKNOWLEDGES THAT WA SHALL NOT BE RESPONSIBLE FOR SAFEKEEPING OR DELIVERY OF ANY OF THE BOOKS, RECORDS, OR OTHER MATERIALS OR DOCUMENTS REGARDING THE VEHICLE (E.G. THE "BUILD SHEET," THE ORIGINAL WINDOW STICKER, THE OWNER'S MANUAL, TROPHIES AND AWARDS). SELLER SHALL

BE RESPONSIBLE FOR SAFEKEEPING SUCH MATERIALS DURING THE AUCTION AND FOR THE DELIVERY OF SUCH MATERIALS TO ANY BUYER. SELLER INDEMNIFIES AND HOLDS WA HARMLESS FOR AND AGAINST ANY DAMAGES ARISING FROM ANY INCORRECT OR MISLEADING STATEMENTS OR ANY KNOWN OR UNKNOWN MATERIAL PROBLEMS, FLAWS OR DISCREPANCIES WITH REGARD TO THE VEHICLE.

10. In addition to the Marketing Fee described, Seller agrees to pay WA compensation for its efforts in the sale of the Vehicle as follows (such compensation collectively referred to as the "Commission"):

(a) Reserve Auction – five percent (5%) of the sale price. With a minimum of \$500 seller's commission. \$1,000 minimum commission on Saturdays.

(b) No Reserve Auction – three percent (3%) of the sale price. With a minimum of \$500 seller's commission.

Seller shall be obligated to pay WA the commission if:

(a) WA procures a buyer that is ready, willing and able to purchase the Vehicle under a "No Reserve" auction or for the agreed upon "Reserve Price" or other mutually agreed upon minimum price under a "Reserve" auction;

(b) Seller withdraws the Vehicle from the current auction or intentionally causes the Vehicle to be unmarketable before the current auction;

(c) Seller transfers or enters into any agreement for the transfer of the Vehicle by any means, including but not limited to exchange, trade, gift or option, to any person during the thirty (30) days following the auction, whether dealt with by WA; except that this provision shall not apply if the Vehicle is sold at another public auction by a licensed dealer; or

(d) WA enters into an agreement to sell the Vehicle to a buyer on terms and conditions that are agreeable to the Seller.

The sale price for the calculation of the Commission shall be the greater of the reserve price or the actual consideration for the transfer of ownership as described above.

11. If the vehicle is to be sold with reserve, the auctioneer may bid on the Seller's behalf in an amount not to exceed the reserve price. The reserve price may not be increased at any time. If Seller offers to lower the reserve price and WA shall sell the Vehicle at the lowered price, the original, nominal reserve commission rate/formula will still apply. If Seller and WA agree that the Vehicle is to be sold at a "net price" to the Seller, the commission rate/formula shall not apply and WA shall be paid the amount, if any, in excess of the agreed upon "net price" to be paid to the Seller.

12. WA does not allow Seller "buy-backs" on "No Reserve" auctions and in the event this occurs, the Seller shall be obligated to pay WA a fourteen percent (13%) commission on the final bid price for the Vehicle which shall be payable in cash or certified funds to WA by Seller before the Vehicle is released to Seller.

13. If Seller shall commence a legal action or proceeding against WA, but does not prevail in such action or proceeding, Seller shall reimburse WA for all its reasonable legal fees and expenses connected with such action or proceeding. If WA shall commence a legal action or proceeding against Seller, and WA prevails in such action or proceeding. Seller shall reimburse WA for all its reasonable legal fees and expenses connected with such action or proceeding. This Consignment Contract and any and all disputes or actions related to, arising out of, or in connection herewith or the relationship of the parties hereto, shall be governed by and construed in accordance with the laws of the State of Missouri without giving effect to the principles of conflicts of laws thereof. Seller agrees to the venue and jurisdiction, if in state court, in the courts of Saint Louis County, State of Missouri, and if in federal court, in the U.S. District of Missouri for any and all disputes or legal actions arising out of or in connection with any matter contained herein.

14. Notwithstanding anything to the contrary herein, WA's total liability arising from and under this Consignment Contract for any claims of any nature, whether based on contract, tort, (including negligence), indemnity, contribution, strict liability or otherwise will not exceed the purchase price for the vehicle as reflected in the Purchase Invoice and Bill of Sale.

15. This instrument together with the Bidder's Registration, Clerk Ticket and Purchase Invoice and Bill of Sale, Odometer Statement, Buyer's Guide and any other document signed by one or both parties and notices posted as the auction site comprise the entire agreement of the parties and shall be binding on them and their respective heirs, personal representatives and assigns. This instrument shall not be modified except in writing, signed by an officer of WA in the auction or at the auction block. The above instruments constitute an agreement between the Buyer, Seller and WA and shall be interpreted in accordance with the laws of the state of Missouri.

16. In the proper context, the term "Vehicle" as used herein is defined to mean any article, item, object, personality, thing(s) sold pursuant to this Consignment Contract and instruments collateral hereto.

17. If the items do not sell for any reason whatsoever, regardless of who is at fault, Seller shall immediately retrieve said item(s) from the place of sale unless agreed otherwise by Seller and WA. Seller shall also have the right to sell these items in another WA auction (with Seller to pay an entry fee for such other auction if the reason the Vehicle did not sell was not due to any fault of WA). Seller must give WA a five (5) day notice before sending the Vehicle to another WA auction for sale and agree to sell the items under the same terms and conditions as advertised and stated for such auction. Seller agrees that WA has no liability for loss or damage to the Vehicle or other items left with WA at any place of auction, and it shall be the Seller's obligation to remove said item(s) at Seller's sole expense.