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Contact: DERRICK WINSTON
Company Name: CITY OF AURORA
Address: 720 N. BROADWAY
Phone: 630-256-3650
Fax:
Email: DWinston@aurora-il.org

This agreement made the 14th day of February, 2019, between CITY OF AURORA (hereinafter called "Seller") and J.J. Kane Associates Inc / trade name J.J. Kane Auctioneers (hereinafter called "Auctioneer", acting as agent for "Seller"). It is agreed as follows:

- 1) Time Frame
 - a) The Seller hereby engages the Auctioneer to sell at public absolute auction sale, the items identified by the seller excluding chemicals, hazardous and/or environmentally unsafe equipment/material unless mutually agreed upon in writing between Seller and Auctioneer.
 - i) This agreement shall cover any auction sale the Seller chooses to hold starting on February 14, 2019 and ending on December 31, 2019 and conducted in the United States at any J.J. Kane permanent facility or rented/leased facility.
- 2) Auction Company Personnel
 - a) Auctioneer shall provide all necessary auctioneers, accountants, clerks and office staff required to achieve the efficient and orderly performance of the auction sale. The Auctioneer shall employ qualified personnel to perform these jobs and shall perform this engagement in a professional and skilled manner in accordance with all applicable, federal, state and local laws and regulations.
- 3) As-Is & Where-Is Auction Sales
 - a) The auction items will be offered for sale individually, or in the case of small miscellaneous items sold in lots as determined by the Auctioneer. The auction items will be sold on an "As-Is Where-Is" basis without any warranties of any kind expressed or implied.
 - b) Seller agrees to disclose to Auctioneer any known defects or faults with auction items prior to the auction sale.

- 4) Marketable Title
 - a) The Seller specifically warrants it is the owner of, and has marketable title to, all of the auction items, free and clear from any liens, debts or encumbrances except as noted. The Seller further warrants that there are no judgments or liens against it and that there are no pending legal actions, claims or proceedings whatsoever which in any way would hinder, prevent or otherwise affect its right or ability to sell the auction items at sale.
 - b) Seller agrees to deliver on request any documents, certificates, proof of ownership or titles, which would be required to deliver title to the auction items.
 - c) In the case that there is a delay in the new purchaser receiving a clear title for any vehicle or trailer sold for the Seller, the net proceeds from the sale will be held, until a free and clear title is received by the purchaser, or at the discretion of the Auctioneer, that item would be pulled from the auction sale and remain the Sellers property.
 - d) If Seller is a motor vehicle dealer, list dealer state & dealer number:

- 5) Titles On-Site
 - a) The Seller agrees to have all signed titles, a letter of authorization to sell its vehicles and any other related paperwork (seller specific bills of sale), either delivered to the sales associate signing this agreement no later than 30 days prior to sale , or hand delivered to the auction sale site no later than 7 days prior to auction sale date.
 - b) To comply with motor vehicle rules and so new purchasers may transfer ownership with minimal problems, a letter of authorization needs to be on your company letterhead and must accompany all titles. Below is a sample letter:
- 6) Delivery Of Auction Items
 - a) The Seller agrees to have said auction items delivered to the sale site starting 30 days prior to sale date and no later than 10 days prior to sale date. Items must be delivered in running condition (except when noted) with adequate fuel levels.
- 7) Insurance Coverage
 - a) The Seller agrees to maintain proper insurance coverage on the auction items being sold until the day of the auction sale.
 - b) The Auctioneer and owner of the sale site property will not be responsible for any damages to auction items resulting from acts of nature, theft, accident and/or vandalism while Sellers property is on the sale site.
 - c) Auctioneer shall be responsible for loss or damage to Sellers auction items due to Auctioneers willful or negligent acts or omissions.
- 8) Commission
 - a) The Seller agrees to pay the Auctioneer a commission rate of 0 percent on the gross selling price of every item identified by the Seller.
 - b) The Seller agrees that Auctioneer will charge a 10 percent fee to the buyer for each item sold.
 - c) The Seller agrees when applicable, that the Auctioneer may deduct its fee from the proceeds of the auction sale.
- 9) No Sales
 - a) In the event that a successful bidder attending the auction sale or bidding live over the internet fails to pay for an item for which he is designated to be the high bidder, that auction item would be considered a “No Sale” and no fee would be charged on that item and the Seller would retain ownership of said item.

10) Reimbursed Expenses

- a) If applicable and pre-approved, the Seller agrees that the Auctioneer may deduct the exact cost for any additional services that Auctioneer provides Seller from the proceeds of the auction sale.
 - (1) Advertising @ No Charge
 - (2) Decommissioning, Washing and Inside/Clean Out @ range from \$25 to \$50 (range regulated by severity of work needed to be done). Only upon request.
 - (3) Storage @ No Charge, 365 days, 7 days a week at our South Beloit Facility for any item going into our auction.
 - (4) Transportation @ “Push Through Cost” paid by CITY OF AURORA Upon Request and deducted from gross proceeds. No upfront money needed from CITY OF AURORA.

11) Payout

- a) Auctioneer will charge and collect from the purchaser, the purchase price together with all applicable taxes. Auctioneer will collect payment in full from the purchaser, prior to any auction items being removed from a sale site.
 - b) The Auctioneer agrees to pay the Seller the net proceeds from the auction sale 14 business days following the auction sale. Auctioneer shall mail a written report to Seller listing items sold and an amount equal to 100 percent of the gross selling price of the property sold at auction, as outlined under section (8) and less any approved expenses as outlined under section (10), in the form of a check made payable, or electronic transfer, to the Seller. Proof of all approved expenses will be provided with the payout.
 - (1) Proceeds check will be made payable and mailed to the same name and address as it appears on page 1 of this agreement unless otherwise listed:
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12) Absolute Unreserved Auction Sales

- a) The Seller understands that the Auctioneer conducts absolute unreserved public auction sales where each item is sold to the highest bidder regardless of price.
- b) Furthermore, the Seller understands/agrees that it is illegal for the Seller or an agent of the Seller to bid on and/or buy-back any items owned by the Seller.
- c) If the Seller or agent for the Seller attempts to bid on and/or buy back any of the consigned auction items, the Auctioneer will at his discretion choose one of the following actions:
 - (1) Pass the item currently being offered for sale along with all the other Seller’s auction items.
 - (2) Sell the item to the last “Good Faith” bidder before the Seller or agent for the Seller began bidding on the auction item.
- d) The Seller agrees that it will reimburse Auctioneer for any lost revenue, including buyer’s fee and/or any pre-approved reimbursed expenses if a “Buy Back” takes place.

13) Advertised Items

- a) At the Auctioneers discretion, in the event that the Seller removes any advertised auction item from the auction sale, Seller agrees to pay the Auctioneer a handling fee of \$500.00 for each item removed from the sale.

14) Breach Of Contract

- a) Each party shall have all remedies available at law or in equity against the other in the event the other party breaches any of the above warranties, makes any misrepresentation herein, or otherwise breaches the terms of this Agreement.

- b) In the event the Auctioneer breaches any term of this agreement, Auctioneer agrees to indemnify and hold the seller harmless for any and all liabilities or damages arising out of or relating to such breach.

15) Entire Agreement

- a) This agreement contains the entire agreement between the parties and there are no other terms, obligations or representations, written or oral, other than contained in this agreement. This agreement may be modified only by a further writing that is duly executed by both parties.
- b) Headings used in this agreement are provided for convenience only and shall not be used to construe meaning or intent.

16) The following section shall apply to the following vehicle mounted aerial devices (Hereinafter referred to as "aerial device"):

- a. Extensible boom aerial devices; and
- b. Aerial Ladders; and
- c. Articulating boom aerial devices; and
- d. Vertical towers; and
- e. A combination of any of the above. The vehicle may be a truck, a trailer, or an all-terrain vehicle.

It shall be the sole and exclusive responsibility of Seller to provide Auctioneer with the operations, maintenance and manufacturer's manual(s) for each aerial device to be auctioned by Auctioneer. Seller acknowledges and agrees that their responsibility to provide all operations, maintenance and manufacturer's manual(s) shall continue in perpetuity even though Auctioneer is selling said items for the Seller. In the event Seller does not provide all operations, maintenance and manufacturer's manual(s) to Auctioneer, Auctioneer shall, in its own discretion, refuse to auction any aerial device until such time as the operations, maintenance and manufacture's manual(s) are provided from Seller to Auctioneer. Auctioneer may notify Seller of the name and location of the successful purchaser within a reasonable time upon completion of the sale. Seller hereby acknowledges its responsibilities in accordance with American National Standards Institute A 92.2-2009 in full and most specifically section 8.7 therein.

Seller hereby accepts all of the terms and conditions set forth above.

J.J. Kane Auctioneers

Company Name: **CITY OF AURORA**

Contact: **Phil Stoegerer
COULTER**

Contact: **DERRICK WINSTON / JOLENE**

Signature: *Phil Stoegerer*

Signature: _____

Date: 02/14/2019

Date: _____

Please FAX back:

- 1) **signed contract**
- 2) **the following 5th & 6th Pages, Both, printed on your Company Letterhead, and Authorization.**

To: Phil Stoegerer, FAX: (262) 997-1057

To Whom It May Concern:

CITY OF AURORA gives J.J. Kane Auctioneers authorization to sell vehicles and/or equipment owned by CITY OF AURORA at your auction sales conducted during calendar year of 2019 in the United States.

Sincerely

Your Name

Signature

Date:

To Whom It May Concern:

As Seller, CITY OF AURORA gives **Derrick Winston**, Superintendent of Maintenance Services the power of attorney authorization to sign vehicle titles, affidavits of correction, and other title-related documents on behalf of CITY OF AURORA for titled assets selling at J.J. Kane auction sales conducted during calendar year of 2019 in the United States.

Sincerely,

Your Name

Signature

Notarized by official Notary