

**THOMAS HIRCHAK COMPANY WILLISTON  
AUTO AUCTIONS TERMS AND CONDITIONS OF SALE**

NAME \_\_\_\_\_ BIDDER'S NUMBER \_\_\_\_\_ DATE \_\_\_\_\_  
ADDRESS \_\_\_\_\_ PHONE (\_\_\_\_) \_\_\_\_\_

**NOTE TO THE BIDDER:** This is a legally binding agreement. Please read it thoroughly. If you have any questions, please bring them to the attention of the staff before bidding. Please sign at each X.

**1. LIMITATIONS AND DISCLAIMERS**

(A) Each lot is consigned to Thomas Hirschak Company (hereinafter referred to as THCo) by the Seller shown on the Bill of Sale. Seller is the disclosed principal of THCo, and THCo acts as the exclusive agent of Seller. Each lot is sold "AS-IS, WHERE-IS", with all faults and defects, and with all errors of description. Buyer understands that: (1) any and all information concerning any lot is provided by Seller; (2) THCo does not make any representations or express any opinions of its own concerning any lot; (3) THCo does not examine any lot or any component of any lot, research the title documents for the lot or verify any information provided by the Seller, nor does THCo undertake any duty to do any of the foregoing for the benefit of the Buyer or anyone else. Buyer acknowledges that THCo's only duty toward Buyer is to release the lot and the title documents "AS-IS, WHERE-IS", upon full performance by Buyer under this Agreement and at times specified in this Agreement. Except with regard to such duty, Buyer hereby waives and releases THCo from and against any claim, demand, liability or expense on any kind arising out of our relation to any lot, expressly including without limitation any assertions of negligence (including negligent misrepresentation) or any breach of warranty. Buyer agrees not to join THCo as a defendant in any action or proceeding arising directly or indirectly out of the condition of the lot or any alleged representations concerning the lot, and further agrees to look solely to the Seller with respect to such matters.

(B) THCo disclaims all warranties, expressed or implied, concerning the lot, including the warranties of merchantability or fitness for any particular purpose(s). Buyer represents that the amounts bid for any lot are based solely on buyer's own independent inspection and evaluation of the lot. As a material inducement to this agreement: (1) Buyer has undertaken to make its own examination of any lot before bidding; and (2) assumes all risk of any non-conformities in any lot. Buyer further acknowledges that it has not relied upon any assumptions regarding THCo's knowledge concerning the lot or the Seller nor upon any representations by THCo, including without limitation any representations as to condition, year or age, serial or identification number, make, model, mileage, equipment, genuineness or authenticity, originality, previous use or ownership, manufacturing or restoration processes of any lot or any component of any lot.

(C) All statements contained in any catalogs, brochures or advertisements of any type pertaining to the sale, including without limitation any statements concerning condition, genuineness or authenticity, origin or provenance, previous use or ownership, manufacturing or restoration processes, year or age, serial number, make, model or mileage of any lot or of any component of any lot, are either expressions of opinion or are for ease of identification only, and they are not to be relied upon by Buyer as representations of fact. Buyer assumes all risks associated with any nonconformity if any lot or any component of any lot and, as a condition of Buyer's participation in this Auction, Buyer represents that it will conduct any inspections and examination necessary to satisfy itself of all material facts before making any bid.

(D) Neither THCo or Seller, or any agent, employee or representative of THCo or Seller has given or authorized any other person to give any affirmation, representation, warranty or guarantee concerning any lot. In any event, THCo acts solely as Seller's agent, and THCo assumes no liability for any affirmations, representations, warranties or guarantees made by Seller to Buyer.

(E) All sales are with reserve unless a lot is explicitly offered without reserve. THCo hereby gives notice that it has the liberty to make, procure and receive bids on the Seller's behalf. The auctioneer and/or the consignor reserves the right to advance the bid until the reserve is met.

(F) All sales may be subject to Buyers Premium which will be added to the final bid price to determine the total purchase price. Please refer to the schedule of Buyer's Fees. Bidder understands that they must pay a sum equal to that shown on the Buyer's Fee Schedule for any vehicle or article purchased at this Auction, prior to this Auction, or after this Auction, and that this fee will automatically be included in the final purchase price and is payable without relief to THCo. **Buyers Premium may change from time to time without notice.**

(G) All sales are subject to the "Light System" which is noted on your catalog and successful bid receipt. Please refer to the description of Light System.

X \_\_\_\_\_

**2. PAYMENT**

(A) Buyer shall be required to place a minimum 25% deposit or \$200 of the total purchase price on each lot at the time the Auctioneer pronounces it sold, in form approved by THCo prior to bidding. Balance of payment shall be due and payable in cash or certified funds at THCo Williston, Vermont office no later than 5 p.m. on the Tuesday following the Saturday Auctions and 5 p.m. Friday following the Wednesday Auctions. All lots are sold subject to the posted buyer's fees.

(B) Should I default upon my purchase in any manner. I agree to pay THCo the full sum equal to 25% of the total purchase price, this sum due and payable without relief. I agree to pay any court costs, attorney fees, collection cost, storage, etc., incurred by the THCo and/or the Seller. This in no way releases the Buyer from any and all financial responsibility regarding said purchase.

(C) Buyer will be required to pay all applicable taxes or fees levied by any authority unless THCo receives satisfactory exemption, to be determined in THCo's sole discretion.

X \_\_\_\_\_

**3. PASSING OF TITLE**

(A) Upon the Auctioneer's call of "SOLD," the title of the offered lot will pass to the highest bidder acknowledged by the Auctioneer, subject to the conditions set forth herein, and such bidder thereupon (a) assumes full risk and responsibility therefore and neither the Seller nor the Auctioneers shall be responsible for the loss of, or any damage to any article due to theft, fire, breakage or any cause whatsoever, however occasioned, (b) will sign a confirmation of purchase thereof, and (c) will thereupon pay the full deposit thereof. All property must be removed from our premises by the Purchaser at their expense not later than the first Thursday at 5 p.m. following the Saturday Auctions and the first Friday at 5 p.m. following the Wednesday Auctions. If it is not so removed, a handling charge of \$10.00 per day per lot will be payable by the purchaser, until it is removed. After 30 days, THCo may dispose of the property as it sees fit. Purchaser hereby waives all requirements of notice, advertisement and disposition of proceeds required by law, and releases THCo from any liability whatsoever in connection with such disposal of property.

(B) Vehicles/Lots, titles and/or bills of sales will only be released in the case of cash purchases. In all other cases, Vehicles/Lots and/or bills of sales will only be released after all other forms of payment (cashier checks, traveler checks, money orders and company and personal checks accompanied with a "Bank Letter of Guarantee") have cleared THCo bank account.

(C) THCo catalogs every lot based on information provided by the Consignor/Seller, but does not independently verify that information. Every lot is sold "AS-IS, WHERE-IS" and no refund or credits shall be issued. All sales are made without recourse. Purchaser has relied entirely and solely upon his own examination of the article being purchased, and further acknowledges that the article is sold in "AS-IS, WHERE-IS" condition and without any warranty of merchantability, fitness for the intended use and without any warranty whatsoever, express or implied.

X \_\_\_\_\_

**4. REMEDIES**

(A) In the event that buyer breaches these terms and conditions of sale or fails to consummate the sale for any reason, Seller and THCo, in addition to and not in lieu of any rights available at law or in equity, may: (1) compel specific performance and hold buyer liable for the purchase price, (2) resell any lot by public or private auction for the buyer's account and risk, after 15 days written notice to Buyer at Buyers last known address, and hold Buyer liable for all damages, including the difference between price paid and resale price, THCo's full commission on the bid price, all costs of resale (including commissions), and consequential damages; (3) retain the lot and hold buyer liable for the difference between the purchase price and the fair market value, and/or (4) cancel the sale and retain all payments made by the buyer as liquidated damages.

(B) Buyer's sole and exclusive remedy shall be an action for actual damages against Seller. Buyer shall have no right to revoke acceptance of any lot after the fall of the hammer and Buyer shall have no right to maintain any action for consequential damages.

(C) Title Attached: In the event THCo cannot deliver title to Buyer within ten business days following the Auction, THCo's sole responsibility shall be return of any deposit and purchase money received for the lot, provided it is returned to THCo in condition as purchased.

X \_\_\_\_\_

**5. COMMISSIONS**

Buyer agrees that if it acquires or if any related entity or person acquires, within one (1) day of the Auction date or so long as it is on THCo's lot, any lot consigned to the THCo Auction that is not sold through the Auction for any reason (such as a sale or an after sale) buyer will be obligated jointly and severally with the seller for the immediate payment to THCo of a commission in the amount of the total buyer's fee and seller's fees as scheduled for the Auction, based on the selling price of the lot. All yards sales must go through the Auction office.

X \_\_\_\_\_

**6. BUYER'S FEES**

Lots selling for less than \$500 = \$50; \$500 to \$999 = \$75; \$1,000 to \$1,999 = \$100; \$2,000 to \$4,999 = \$125; \$5,000 to \$6,999 = \$150; \$7,000 to \$9,999 = \$200; \$10,000 to \$11,999 = \$250; \$12,000 to \$19,999 = \$325; \$20,000 to \$29,999 = \$450; \$30,000 to \$39,999 = \$600; \$40,000 to \$49,999 = \$700; \$50,000 & over = \$800.

**7. CONDITIONS OF THE SALE**

The above stated Terms and Conditions of Sale cannot be altered except in writing by THCo.

**I have read, understand and accept all Terms and Conditions of Sale.**

X \_\_\_\_\_

(Signature)

\_\_\_\_/\_\_\_\_/\_\_\_\_

(Date)

## **Online Auto Auction Bidder Terms and Conditions**

**Purpose:** As a member bidder at Thomas Hirchak Company(“THC”) you agree to be bound by the Online Auto Auction Bidder Terms and Conditions set forth herein and the Thomas Hirchak Company Williston Auto Auction Terms and Conditions of Sale. THC reserves the right to amend these terms and conditions at any time without prior notice.

Member bidder warrants that Member Bidder is legally eligible to purchase vehicles and Member bidder wishes to attend and/or otherwise participate in the Auction Sales conducted by THC and voluntarily agrees to the Terms and Conditions permitting such participation. Private Bidder Member Eligibility: Bidders may sign up at THC if you are at least 18 years of age and can produce a valid US photo identification card at time of registration. Buyer MUST register through THC Online Auction system in order to receive a bidder paddle. Auction Company will accept your registration once all terms and conditions are met. If applicable Member Bidder will permit Auction Company to capture or otherwise acquire Member Bidder’s signature in digital or electronic form and specifically authorizes Auction Company to apply the Bidders signature to Auction Sale Documents.

**Buyer’s Registration:** If you are a private individual, your credit card must be registered with THC prior to being accepted as a bidder. If you are a successful bidder on a vehicle, there is a 25% required minimum deposit at time of sale. You must make arrangements with Auction company for the immediate processing of the deposit. If deposit is **not** made within 30 minutes after the auction gavel falls and car is clerked, the vehicle will be rerun and bidding privileges will be revoked. This deposit shall be immediately applied to any successful bid. Any remaining balance, is due in cash or certified funds by the end of close of business the second day after the auction in full together with any buyer’s premium. In the event the balance due is NOT paid by the Payment Due Date, Auction company may a) deduct money from any fees it may owe to customer, b) retain possession of any vehicle owned or controlled by the customer; c) withhold title documentation until all amounts are paid or d) cancel the transaction to which the amount owed relates and revoke all bidding privileges.

Dealers that are already registered and approved with THC, MUST have a signed blank check on file with THC in order to bid. NEW DEALERS must have a completed Dealer package, signed terms and conditions and leave a signed blank check on file in order to bid. If a dealer is the successful bidder and uses the check on file it is the dealers’ responsibility to ensure that a new check is on file prior to the next auction. In the event a dealer uses AFC, NextGear AutoUse or VAC, it is the dealers’ responsibility to inform THC of the floor plan company and sign the auction receipt stating such authorization within 24 hours of sale. No vehicle or transfer documentation will be released until payment is received.

Dealers may authorize additional buyers to place bids on their behalf. The completion of the additional authorized bidder request form is included in the dealer registration package. There is no additional fee to activate these additional bidders however, Dealers are responsible for the actions of their representatives. Our system will not prevent multiple bidders from the same

company from bidding against each other during the auction. All bidders assume full responsibility for each of their own bids including anyone from their own organization. Please notify Auction Company in writing upon the revocation of any authorized bidder representative.

**Bids: Once a bid has been submitted it cannot be retracted, deleted or cancelled.**

**Payment:** Payment for vehicles may be made in cash, cashiers check, wire transfer or money order. PAYMENT IN FULL IS DUE WITHIN TWO WORKING DAYS OF THE AUCTION. No Exceptions. Inspection of all vehicles sold Green light must be made and completed by 4pm on the second working day after the auction. Bidders refer to light system guidelines on website. **If the Green light vehicle is not inspected prior to Tuesday at 4PM, they waive all rights that are granted under the light system.**

**Fees:** Member Bidder acknowledges each vehicle is sold subject to the THC Buyers Premium schedule and any applicable Buyer's Internet bid fee, storage, late payment, relist and other fees may apply at each THC auction and may vary by location. These fees may be subject to change without notice. Bidders are solely responsible for ascertaining fees applicable to a THC auction prior to bidding. Vehicles not picked up 3 business days following the auction will be assessed a storage fee of \$10.00 per vehicle per day. These fees are payable in cash only and will not be released until all fees are paid in full. After the vehicle has been at THC facility for 15 days and the towing and storage fees have not been paid, the vehicle will be considered abandoned and THC will process the vehicle according to applicable law. Vehicles may only be picked up during yard hours. Under no circumstances will a vehicle be placed outside of the gated yard for pickup. Bidders are urged to pickup vehicles immediately after the sale.

**Bidder registration:** Bidders must register before each and every auction. THC reserves the right to reject or void bids for any reason. If a dispute should arise regarding a bid, THC is the exclusive deciding authority in resolving disputes. Bidders agree to indemnify, defend and hold THC harmless from any and all liability arising out of decisions made resolving disputes. THC may in its sole discretion and with or without notice postpone, cancel or withdraw a vehicle from a sale. Floor bids will prevail over virtual bids of an equal amount. In the event of a virtual tie bid between two or more bidders the first bid received on line will be deemed the high bidder. If bids: If a bidders bid has been accepted within one hour of the conclusion of the auction the bidder will be obligated to purchase the vehicle. This does not apply to repossessed vehicles. Bidders will be obligated to purchase repossessed vehicles upon confirmation by the lending institution. After two business days after the auction if the lender has not confirmed or rejected the high bid the bidder may excuse the high bid. If the lending institution accepts within that two business day period, the high bidder will be obligated to purchase the vehicle.

THC does not guarantee that any vehicle sold can be legally registered in any state or country. Bidders accept all risks associated with variations in vehicle and title registration laws between state, provinces and countries. THC and its seller(s) expressly disclaim the accuracy or completeness of any and all information provided to bidders. Bidders shall not rely on a vehicles information in deciding on whether or how much to bid on a vehicle. It is the sole responsibility of the bidder to confirm, research, physically inspect and investigate the vehicles and any vehicle

information prior to bidding. Bidders assumes all risks of loss for all vehicles purchased from THC. THC will not be responsible for any damage to or loss of parts from acts of theft, vandalism or acts of God. Once a vehicle is removed from a THC premises it is accepted AS IS. Once a vehicle is removed, under no circumstances will THC be liable for any claim(s) whatsoever. Under no circumstances including negligence, shall THC be liable for any special, incidental or consequential damage or lost profits that result from or are related to the sale, distribution or issue of the inability to use any vehicle, even if THC has been advised of the possibility of such damages

**Release of Liability and indemnification:** Bidders, their guests or representatives irrevocably and unconditionally waive and release their rights, if any, to recover from THC, its directors, officers, employees, agents, subsidiaries, partners, affiliates and vehicle seller any and all damages, losses, liabilities, costs, expenses, or claims there of whether direct or indirect, known or unknown, foreseen or unforeseen which may arise from or be related to bodily injury, property damage or other occurrence of loss which occurs on THC premises, including but not limited to off-site auctions. THC makes no warranty, stated or implied that this service will meet your needs. Any material downloaded or obtained thru the use of this service is done at your own risk. THC is not liable in any form for any damage to your computer system or loss of data. No information whether written or oral obtained by you shall create any warranty. Neither THC nor any internet access providers are responsible for incorrect or inaccurate information. Bidders understand that there may be delays, omissions, interruptions, inaccuracies and or other problems with the information, products and services published over the site. THC cannot guarantee the uninterrupted performance of any audio, video or internet feed.

**Internet Preliminary Bidding:** During the preliminary Bidding period on the online auction system, Members may register and submit bids electronically. The highest Preliminary bid at the start of the simulcast auction competes with the virtual bidders onsite until the highest bid possible is declared.

**Will Call/On-Approval Vehicles:** Vehicles Sold “Will Call/On Approval” such as bank repossessions will not be released to Member Bidder until the acceptance of the highest bid by the Seller is provided to THC. This may take up to two business days for the seller to respond. Member Bidders acknowledge acceptance of the terms and agree to honor their bid until its acceptance or rejection is determined, not to exceed 3 business days.

**Removal of Vehicles:** Vehicles MUST be picked up within 3 working days after the auction sale. If not picked up within the specified timeframe, storage fees will be charged per day/per vehicles. Vehicles must be picked up during auction yard hours, Monday -Friday 8-5PM. THC requests and encourages member bidders to pick up their Vehicles as soon as possible. THC will not recognize nor be responsible for any theft or damage to the vehicle after the vehicle has been awarded to member bidder.

**Disclosure Conflicts:** Information regarding the description or condition of a vehicle may come from several different sources, which occasionally may result inconsistent or incorrect disclosure information. Unless otherwise stated, disclosure conflicts will be resolved in the following order  
a) auctioneer announcements from the block b) specific disclosure in announcements as stated in

auction catalog c) damage or conditions clearly visible in photographs of vehicle in the catalog  
d) disclosure in a disclosure report (if available).

**Sale Cancellation:** THC may, at its on discretion and with or without notice, postpone or cancel a sale or withdraw a vehicle from sale. THC will have no obligation or liability to Members as a result of such withdrawal, cancelation or postponement.

**Tie Bid Policy:** Onsite Simulcast bids prevail over online preliminary bids of equal amount.

Removal: **ALL VEHICLES PURCHASED ONLINE MUST BE REMOVED FROM THC PREMISES BY THE FOLLOWING WEDNESDAY AT 4PM, NO EXCEPTIONS.** \_\_\_\_\_  
Bidder Initials

I have read and agree to the terms and conditions as stated in this ONLINE AUTO AUCTION BIDDER TERMS and CONDITIONS.

Bidders Signature: \_\_\_\_\_

Name/ Business or LLC on BOS/ODO/Title as: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Email Address: \_\_\_\_\_

Date: \_\_\_\_\_

For webcast bidding,  
please fill out PDF  
and return to  
AutoInfo@THCAuction.com