



BIDDER AGREEMENT TERMS AND CONDITIONS OF SALE

This Bidder Agreement ("Agreement") is entered into by and between Leake Auction Company ("Leake") and the person or entity listed on The Purchase Invoice and Bill of Sale (hereinafter "Buyer").

1. **Disclaimers.** Buyer hereby acknowledges and understands as follows:

- a. Each Vehicle or Automobilia piece (hereinafter "Lot") is consigned to Leake Auction by a Seller under a separate agreement ("Seller"). Each Lot is sold "as is, where is," with all faults and errors in description.
- b. All information regarding a Lot is provided by Seller, and Leake makes no representations nor opinions concerning a Lot; nor is any component, ownership documentation or provenance related to a Lot researched by Leake, and nor does Leake verify any Seller-provided information. Buyer acknowledges Leake's responsibility to Buyer is merely an agent between two parties, and is only responsible for transferring a Lot to Buyer "as is, where is," upon performance by Buyer.
- c. Buyer waives and releases Leake from and against any liability, claim, demand, or expenses arising out of, or related to the Lot, expressly including without limitation any assertions of misrepresentation, negligence or breach of contract or warranty. Buyer agrees not to join Leake as a defendant in any action or proceeding arising directly or indirectly out of the condition of the Lot or alleged representations thereto, and further agrees to approach Seller with respect to items of this nature. If Buyer fails to comply with this provision, Buyer agrees to reimburse Leake for all costs, expenses and fees, including attorney fees, in defense of such claims.
- d. Leake expressly disclaims all warranties, express or implied, concerning the Lot, including warranties of merchantability or fitness for any particular purpose. Buyer represents that the amount bid for any Lot is based solely on Buyer's personal inspection.
- e. Buyer acknowledges the final vehicle description may vary from previous printed catalog or online description and the final vehicle description announced on the auction block and contained in the car card supersedes any such previous vehicle description.
- f. Buyer further acknowledges that (s)he has performed adequate due diligence upon full examination of any Lot before bidding, and hereby assumes all risk relating to misrepresentations or irregularities regarding a Lot. Buyer further acknowledges that (s)he has not relied upon any assumptions regarding Leake's knowledge concerning the Lot, irrespective of written, oral, or otherwise regarding any aspect concerning the Lot. Buyer hereby also assumes all risks associated with non-conformity or any component of any Lot.
- g. As a condition of participation in the auction, Buyer represents that s/he will conduct any inspection and examination necessary of all material facts before bidding:
 - i. Any and all advertising statements of any type pertaining to the Lot, including without limitation to any statements concerning make, model, mileage, condition, origin, originality, authenticity, past use or ownership, restoration processes, year or age, VIN/serial number of any vehicle or related component are provided by Seller, and are expressions of opinion or are for ease of identification, and are not to be relied upon.
 - ii. For vehicles with a Reserve, the auctioneer has the authority to place bids on behalf of the consignor up to the reserve amount.
 - iii. Leake nor any agent, employee or representative is authorized to provide any oral or written affirmation, representation, warranty or guarantee concerning any Lot, and assumes no liability for same.
 - iv. Buyer acknowledges that Leake must comply with federal economic and trade policies and that such compliance may include running a OFAC search and /or reviewing transactional data for compliance purposes.
- h. Prior to driving any vehicles purchased at auction, Buyer agrees to inspect the vehicle and all driving and safety components or mechanisms of purchases.
- i. Buyer acknowledges that Leake shall not be responsible for safekeeping or delivery of any of the provenance, books, build sheets, Protect-O-Plates, window stickers, or other records, awards or documents regarding the Lot, and that Seller is ultimately responsible for safekeeping of these items. If the Leake Property Room is utilized for storage of same, Buyer acknowledges this is offered as a convenience to Sellers and Buyers, however Leake shall not be responsible for loss or damage in regards thereto.

2. **Commissions.**

- a. Buyer understands and agrees a Buyer's fee of 10% of the final hammer price is due and payable for all vehicular lots, and a Buyer's fee of 15% for Automobilia Lots. Buyer understands and agrees that the aforementioned fee will be automatically included in the final settlement. Buyer is subject to all document preparation costs, applicable taxes and license fees. Buyer understands and agrees that a 5% penalty will be added to the Buyer's fee if Buyer departs the auction premises prior to settling his/her final account. Sales tax (if applicable), will be charged on the final total of hammer price plus premium.
- b. All applicable taxes, license fees, or other required fees levied by any authority are responsibility of Buyer unless satisfactory proof of exemption is provided to Leake. Buyer understands a Bill of Lading must be provided to satisfy tax exemption requirements, the acceptance of same is at Leake's discretion.
- c. Buyer agrees that within sixty (60) calendar days if any Lot consigned to the Leake auction is acquired by Buyer that is not sold through the auction for any reason, Buyer will be obligated for the immediate payment to Leake of a commission in the amount of 15% (No Reserve Lots) or 18% (Reserve Lots) of the sale price.

3. **Payment of Fees, Default.**

- a. All bidder fees and costs are non-refundable and non-transferrable, and Buyer acknowledges that the bidder registration fee paid to participate in the auction is a separate fee and is not included in nor deducted from the total price of any purchase.
- b. A valid method of payment must be submitted for each auction. Buyer shall bring a bank reference in a Leake-acceptable format, with a copy of Buyer's signature certified by the bank of record.
- c. Buyer agrees to pay for all Lots on the day of sale in U.S. currency, certified check or cashier's check. Personal checks may be accepted at Leake's sole discretion, but only if accompanied by irrevocable bank letter of guaranty stipulating Buyer's credit limit.
 - i. Any deviation of the aforementioned shall not be valid without the prior written consent of Leake. Buyer hereby authorizes Leake to recover lost commissions or fees due should Buyer default; said amounts shall be charged to Buyer's credit card.
- d. Buyer acknowledges and agrees that s/he is expressly prohibited from submitting a bid for purchase of any Lot if any such single or cumulative bid exceeds Buyer's credit limit. If Buyer succeeds in entering a winning bid in excess of his credit limit, Buyer hereby warrants and agrees that he shall

remain fully liable to Leake and to Seller for the complete purchase price, plus applicable fees and commissions, and that funds shall be remitted to Leake on the day of sale.

- i. Should Buyer default upon the purchase for any reason, Buyer agrees to pay Leake the Buyer's premium and Seller's commission. Said amount is due and payable immediately. In addition, Buyer also agrees to pay any court cost, attorney fees, storage, or other related cost or expense of any nature and wheresoever incurred by Seller or Leake as a result of Buyer's default.

4. **Ownership Transfer.** Buyer further agrees and acknowledges:

- a. That ownership of Lot will pass to the highest Bidder acknowledged by the auctioneer upon the fall of the hammer, subject to the conditions set forth herein.
 - i. At such time, Buyer assumes full risk and responsibility for the Lot, and neither Leake nor its agents or assignees shall be responsible for the loss of, or any damage to, any Lot or associated article as a result of theft, fire, breakage, act of God, or any other cause whatsoever.
 - ii. Buyer is responsible for providing proof of current insurance for each auction.
 - iii. Buyer will sign the Purchase Sale Contract/Clerk Ticket confirming purchase of the Lot and any related purchase documents.
 - iv. Buyer will pay the full purchase price plus applicable commission.
 - v. Buyer will ensure the vehicle complies with any and all safety and emissions requirements; and
 - vi. Buyer warrants and agrees that he will perform the necessary steps to document the transfer of title in accordance with applicable state law within 30 days of receipt of transfer documentation from Leake.
- b. Lots, ownership documents and associated provenance will only be released to Buyer in the case of cash purchases. In all other cases release will be made only after payment has cleared. Ownership documents will be delivered to Buyer at the time settlement is made with Seller, typically within 14 business days from the date of sale, excluding bank holidays.
- c. Buyer must remove all lots and associated property from the premises as indicated below, unless otherwise specifically instructed in writing by Leake. If any Lot is not removed, a handling charge of 5% of the purchase price will be payable by the Buyer per month, until the Lot is removed, with minimum of 8% for any property not removed within 60 days after the sale. After 90 days, Leake may dispose of the property.
 - i. Buyer hereby waives all requirements of notice, advertisement and disposition of proceeds required by law, and releases Leake from any liability whatsoever in connection with such disposal.

5. **Removal from Premises.**

- a. Buyer hereby authorizes Leake's representatives to move vehicles on property on an "as needed" basis, whether it be under its own power, or otherwise.
- b. All vehicles must be removed from seller's location **within one week of auction close**. If any vehicle is not removed by Buyer prior to this time, Leake shall have the vehicle removed and Buyer shall be responsible for towing, storage and labor charges related to clearing the vehicle from the premises.

6. **Governing Law, Jurisdiction, Remedies.**

- a. In the event Buyer breaches these terms and conditions or fails to consummate the sale, Leake may, at its sole discretion:
 - i. Compel performance and hold Buyer liable for the bid price plus commissions;
 - ii. resell any Lot by public or private auction for Buyer's account and risk, after 10 days' written notice to Buyer at Buyer's last known address, and hold Buyer liable for all damages, including the difference between the bid price and resale price, Leake's full commission on the bid price, all costs for resale, and consequential damages; or
 - iii. Cancel the sale and retain all payments made by Buyer, including any advance deposits, as liquidated damages and not as a penalty.
- b. In the event of any dispute between Buyer and Leake arising out of or related to this Agreement or its subject matter, Buyer's claim for damages shall be limited exclusively to actual damages, and shall not include consequential, incidental or other special damages.
- c. This Agreement and any action arising thereof shall be governed by Arizona law. As such, Buyer agrees that the state and federal courts in Maricopa County, Arizona shall have exclusive jurisdiction, and Buyer hereby waives any objection to venue. In any litigation or proceeding arising out of or related to this Agreement, Buyer agrees to pay Leake's attorney fees, costs and expenses incurred in connection with the litigation or proceeding if Leake is successful.

7. **Assignability.**

- a. This Agreement may not be assigned without Leake's prior written authorization.

8. **Severability.**

- a. If any provision of this Agreement is held to be illegal, invalid, or unenforceable under any present or future law: (i) such provision will be fully severable; (ii) this Agreement will be construed and enforced as if such illegal, invalid, or unenforceable provision had never comprised a part of this agreement; (iii) the remaining provisions will remain in full force and effect and will not be affected.

9. **Entire Agreement.**

- a. This Agreement and related Purchase Sale Contract/Clerk Ticket contain the entire Agreement between Buyer and Leake. Any terms proposed by Buyer orally or in writing which add to, vary from or conflict with this Agreement shall be void, and the Agreement shall constitute the complete and exclusive statement of the agreement between the parties. This Agreement may only be modified by written instrument executed by the authorized representatives of both Buyer and Leake and which expressly modifies the Agreement.

10. **Release – Appearance.**

- a. By participating in this event and completing this Agreement, Buyer hereby acknowledges he has given Leake, its licensee, social media, and/or its online streaming or television partners permission to use his likeness and image for television, Internet, video screens, videos, still photography and/or any other visual/audio recording or program in perpetuity, and Buyer hereby waives all rights or claims that might arise from use of his picture or likeness for any purpose. Entry into the auction site constitutes acceptance of the terms and conditions.

11. **Privacy Policy.**

- a. Our Privacy Policy is updated or revised from time to time and is available at Leakecar.com. By entering into this Agreement, Buyer agrees to our Privacy Policy. Furthermore, as a consignor/seller or a bidder/buyer at our events, your contact information will be exchanged with the other party to any vehicle sale transaction completed by Leake.

Bidder Signature: _____

Date: _____

Bidder Printed Name: _____