

# Terms of Sale – Tiger Commercial & Industrial

All items, property or product offered for sale ("Items", "Property", "Product") are offered by Tiger Capital Group LLC and Liquidity Services Capital Assets LLC ("Agent"), as an agent of the Property owner ("Seller"), subject to the following terms of sale ("Terms of Sale"), which, combined with any supplemental or revised terms posted in materials, on the web or as announced by Agent at the time of sale ("Sale Specific Terms"), make-up the complete and entire Terms of Sale ("Terms of Sale") that govern any sale by Agent to a Buyer.

## 1. Registration, Deposit and Payments.

All persons participating in the Sale, whether or not successful at purchasing Property, (referred to as a "Bidder" or "Buyer") must register to become eligible to participate in the Sale and must provide complete and accurate information as required by Agent. This information may be used as necessary to ensure Buyer's fulfillment of its obligations as defined herein. Information obtained at the time of registration will also opt Buyer into Agent's sale notification system, which may be opted out by following the instructions at the bottom of each Sale notice. Buyer's information will not be sold, or otherwise shared with other companies, with the exception of the Seller and, in the case of a legal sale, to those parties as may be dictated by the rules governing the sale process.

### Registration Deposit

In order to qualify to bid, Buyer must provide Agent with an initial deposit of 25% of Buyer's anticipated purchases, but in no event less than the amount posted in the Sale Specific Terms ("Initial Deposit"). The initial deposit must be provided in the form of cash, cashiers' check (made payable to "Tiger Capital Group, LLC"), wire transfer or by a check accompanied by bank letter of guarantee deemed acceptable by Agent, unless posted otherwise in the Sale Specific Terms ("Acceptable Payment Forms"). Initial Deposits will be refunded upon request and provision to Agent of Buyer's deposit receipt, provided no purchases of Items are made. In the event Buyer fails to pay the entire purchase price by the payment deadline and/or remove all Items in the timeframes allotted, the 25% deposit will become non-refundable and buyer may be charged additional fees as liquidated damages. Deposit refunds must be claimed within 30 days of the date of the Sale with a proper Deposit receipt, or otherwise shall be deemed as forfeited. International buyers, please see sale specific terms for deposit requirements.

Buyers participating online must provide the Initial Deposit 24 hours prior to the Sale. Tiger may not be able to respond to registration requests on the day of sale. Credit cards may be accepted for the Initial Deposit from online Buyers up to and during the sale on the following conditions: 1) Buyer grants Agent the irrevocable right to authorize Buyer's credit card for the minimum deposit and such subsequent amounts necessary to secure Buyer's purchases; 2) Buyer grants Agent the irrevocable right to capture the authorizations on Buyer's credit card to secure Buyer's purchases; 3) Buyers acknowledges that a credit card authorization shall not be sufficient to secure purchases over \$10,000, and therefore shall provide any additional deposit necessary in one of the other Acceptable Payment Forms 24 hours prior to the Sale; 4) Buyer acknowledges and accepts that credit card authorizations are subject to a 3-7 day hold on funds with Buyer's credit card company, which hold is not under the control of Agent to release.

Upon Buyers' successful award of bid, Buyer shall be immediately responsible for 25% of their total purchased Items as a non-refundable deposit (the "Deposit"), in one of the Acceptable Payment Forms. Buyers who have provided a credit card for the initial deposit hereby authorize Agent to charge their credit card for the 25% Deposit. Agent's election not to collect the 25% Deposit, pending full payment, does not waive Buyer's obligation to such amount in the event of default, nor does it waive Agent's right to process Buyer's credit card for the 25% Deposit at a later date.

Unless posted otherwise in the Sale Specific Terms, Payment of the Balance Due ("Final Payment") is required by 12:00 noon on the day following the Sale.

Final payments must be made in one of the Acceptable Payment Forms or, if allowed per the Sale Specific Terms, by Visa or MasterCard. Unless alternative arrangements have been acknowledged and accepted by Agent prior to the conclusion of the Sale, Online Buyers hereby authorize Agent to process the payment for the balance of their purchased Items using the credit card provided. However, Buyers spending in excess of \$10,000 must provide an alternate Acceptable Payment Form for the portion of Buyer's purchases exceeding \$10,000. Buyers paying by credit card hereby waive their rights to chargeback.

All Deposits and payments must be made in U.S. Dollars. IRS regulations require us to report all cash payments, as defined by the IRS, exceeding \$10,000 from any one purchaser for one transaction or two or more related transactions. When accepted, business checks must be accompanied by a bank letter, drawn on a bank which is acceptable to the Agent, which states that the bank will guarantee payment up to a specified amount (this letter must contain the words "guarantee payment"). Buyer authorizes Agent to complete and deposit signed checks provided to Agent without the dollar amount.

2. **Buyer's Premium.** A 5% Buyer's Premium will be added to the price of each item.

3. **Taxes.** When required by law, Agent shall collect, and Buyer shall pay all sales/use taxes or other applicable taxes, which will be added to the purchase price, including the Buyers' premium, on all purchased items. Buyers who purchase for resale must fax or email to Agent documentation to prove their exemption status, including, but not limited to, their resale permit and a completed and signed resale certificate form, without which all applicable taxes will be charged by Agent. Buyers purchasing from out-of-state are required to

# Terms of Sale – Tiger Commercial & Industrial

provide a Bill of Lading proving that the purchased Items are being transported directly out-of-state by a common carrier. Agent reserves the right to reject any claim for sales tax exemption that it believes to be insufficient to satisfy the scrutiny of the applicable taxing authority. Buyer's obligation to make payment, in full, for all items purchased, is not contingent upon or subject to any determination by Agent regarding Buyer's sales/use tax exemption status or the timely notice in which Buyer's sales/use tax exemption status is provided to the Buyer. Buyer's purchasing vehicles are liable for all registration and associated taxes. Additional information and forms regarding sales/use tax are available at [www.tigergroup.com/salestax](http://www.tigergroup.com/salestax)

4. **Bidding.** Agent reserves the right to add to, group, withdraw, re-catalog Items in all Sales, or to sell in any order Agent deems suitable, as well as adjust minimum bids and/or reserve prices and extend or shorten closing times. In the event there is a dispute between two or more claims of entitlement as the successful bidder, Agent reserves the right to resell the item(s) in dispute. Agent reserves the right to hold all bulk bids in abeyance and at the conclusion of the sale or after the offering of a specific item, to accept either the bulk bid or the aggregate of the individual bids received during the sale, whichever is higher. Agent reserves the right to reject any bid which is only a fractional advance over the preceding bid or which is not commensurate with the value of the lot. Some of the Items offered may be subject to a reserve price (minimum allowable selling price).

Buyers participating online are responsible to confirm submittal of online bids for accuracy. When offered, Internet bidding is provided via a 3<sup>rd</sup> Party Bidding System. Under no circumstances shall Buyer hold Agent liable for system failures resulting in Buyer's bid not being properly submitted. All bidding and subsequent transactions shall be in U.S. dollars.

5. **Representations.** Agent makes every effort to provide accurate information about the Items being sold; however, in no other way is accuracy of same guaranteed by Agent. Buyers shall be deemed to have relied entirely upon their own inspections and investigations before placing an offer to purchase. Buyers are recommended to inspect all Items. When provided, descriptions, photos, conditions, dimensions, odometer, usage and hours etc. are offered as a guide only.

6. **Vehicle Titles.** Where applicable, vehicle title documents, which are in the possession of the Agent, will be provided to the Buyer within five (5) business days following the sale, or as soon thereafter as such documents become available. Buyer is responsible for transfer and/or registration costs direct with the DMV including any back fees or penalties.

7. **All Sales are Final.** A successful bid at Auction, whether live or online, constitutes acceptance of the Terms of Sale and is a legally binding contract of sale. All sales are final. There will be no refunds, returns or exchanges.

8. **Removal of Items Purchased.** BUYER IS SOLELY RESPONSIBLE TO REMOVE PURCHASES. IF BUYER IS UNABLE TO PICKUP PURCHASES IN THE ALLOTTED TIMEFRAMES, the Items purchased shall be deemed abandoned and Buyer will lose any right, title or interest they may have acquired, and the Items shall revert and repossess to agent without further notice to Buyer. Agent will also be entitled to any costs associated with the removal, storage and reselling of the Items, including any other charges, fees, and expenses incurred. All purchases must be paid in full before items will be released from the premises. Buyer is also responsible to provide their own material handling equipment and packing supplies and to provide Agent with a Certificate of Insurance. Buyer or Buyer's representative must provide the paid invoice at time of pickup.

9. **Export.** Buyer is responsible to obtain proper licenses, where required for the export of any Items that are considered controlled commodities and which are restricted from export outside of the United States without proper export licenses. Buyer further agrees to fully comply with all applicable export control laws, regulations, rules, and orders of the United States and all other applicable jurisdictions, and will not export, re-export, release, or transfer (collectively "export"), directly or indirectly, any Equipment, or enter into any transactions, for any proscribed end-use, or to or with any proscribed country, entity, or person (wherever located), including but not limited to those entities and persons listed on the U.S. Government's Denied Persons List, Unverified List, Entity List, Debarred Parties List or Specially Designated Nationals List, without first obtaining at its own expense written authorization from the U.S. Government. Agent will have the right to cancel any sale at any time in the event it determines, in its sole discretion, that the sale does or may violate applicable U.S. export control or similar laws.

10. **Failure to Remove Purchased Items.** In the event Items (including portions of a lot) are not removed by Buyer in the timeframes allotted, the Items shall be deemed abandoned and subject to the following actions without any further notice to Buyer: (i) Buyer may lose any right, title or interest Buyer has acquired in the Item(s); (ii) Agent, Seller or Landlord, in their sole discretion, may reposes the Items and retain title for their own interests; and/or (iii) Agent, Seller or Landlord may arrange for the Items to be discarded, removed, stored or resold, and shall be entitled to any costs associated with these actions and/or any other charges, fees, and expenses incurred as a result of Buyer's failure, including all attorney fees and costs incurred by Agent, Seller and/or Landlord to enforce Buyer's obligations hereunder.

11. **Failure to Pay.** In the event Buyer fails to pay the entire purchase price by the payment deadline, Agent may retain and/or recover, upon demand, from Buyer the required Deposit per Paragraph 1 as liquidated damages for such failure. In addition thereto, Agent may, at its discretion, either resell Buyer's Items at a public or private sale without further notice to Buyer and/or dispose of the item at Buyer's sole expense. Any difference between the bid price for an item by the defaulting Buyer and the price received by Agent at a resale shall be paid to Agent by the defaulting Buyer. In addition, a defaulting Buyer shall be deemed to have granted Agent a security interest in the item, which Agent shall retain as collateral security for Buyer's obligation to Agent.

# Terms of Sale – Tiger Commercial & Industrial

12. **Non-Delivery.** Until such time as purchased Items are removed from the premises by the Buyer, Agent shall have the right to cancel or void the sale of any such Items purchased by Buyer. Agent shall have no liability to Buyer due to the non-delivery of any purchased item other than the return of Buyer's deposit or payment for a canceled or voided sale item. No claim of any kind for purchased Items, whether or not based on negligence, shall be greater in amount than the purchase price paid by Buyer.

13. **Absence of Warranties.** The condition of the Items being offered varies. The Buyer understands and agrees: (1) that any description or sample of the items given or furnished by Agent is solely for identification, and does not create any warranty expressed or implied, that the item actually conforms to such description or sample, (2) that Buyer or agent on Buyer's behalf has inspected or has had the opportunity to inspect, all of the items upon which Buyer does purchase, (3) that all Items are purchased and accepted by Buyer "AS IS", "WHERE IS" and "WITH ALL FAULTS". AGENT MAKES NO REPRESENTATIONS, WARRANTIES OR GUARANTEES WHATSOEVER WHETHER WRITTEN, ORAL OR IMPLIED AS TO QUALITY, QUANTITY, CONDITION, USABILITY, SALABILITY, WEIGHT, MEASUREMENT, USAGE (e.g. hours and odometer readings) DATE OF EXPIRATION YEAR, MODEL, MECHANICAL CONDITION, PERFORMANCE, OR OTHER SPECIFICATIONS, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR WARRANTY AGAINST PATENT, TRADEMARK, COPYRIGHT OR TRADE SECRET INFRINGEMENT, (4) **THERE IS NO WARRANTY RELATING TO QUIET ENJOYMENT, OR THE LIKE IN THE DISPOSITION OF ANY OF THE ASSETS.**" Buyers are hereby advised that the Agent and Seller have no knowledge with respect to, and have no obligation to investigate, the merchantability or fitness for any particular purpose or use of any of the Assets. (5) in the event there are manufacturer warranties in effect for the item purchased, Buyer must make all claims hereunder directly with the provider of the warranty. **NO WARRANTY OR REPAIR PROGRAM FOR THE ASSETS IS BEING OFFERED AS PART OF THE SALE.** No statement or statements of any other paragraph herein shall be construed to in any way contradict the provisions of this paragraph.

14. **Appropriate Rights and Clearances Not Included.** All Items are sold by Agent without any corresponding grant of rights or clearance from any third parties. Since some of the Items may, if commercially used, infringe third party rights, Buyer acknowledges and agrees that it shall be solely responsible for acquiring all appropriate rights and clearances from all third parties. Such rights and clearances include, but are not limited to, third party copyright, trademark, patent, trade secret, and privacy rights.

15. **Buyer's Responsibility.** Upon the Agent's declaration of an item as "Sold" and Buyer's full payment, title to the offered lot shall pass to the Buyer, who shall forthwith assume full risk and responsibility for the lot. Dependent upon the Item(s) value, Buyer may consider taking steps to have the Item(s) insured as of such transfer of title Buyer is solely responsible to provide any personnel, equipment or material needed to pick up Items purchased and shall assume all responsibility for the removal of any item purchased at the sale and any and all risks associated with such removal including, without limitation, the responsibility for providing licensed, qualified and bonded professionals to ensure proper water, gas and/or power disconnection, and to leave the Sale Site in a safe condition, undamaged by the removal process. Agent retains the right to prohibit and stop the ongoing removal of any item, by a Buyer, which Agent, at its' sole discretion, determines is not being removed in a professional and reasonable manner.

16. **Hazardous Materials.** Buyer agrees that in the event any purchased Items contain Hazardous Materials,<sup>1</sup> Buyer shall be responsible for disposing of such Hazardous Materials. Buyer agrees to provide Agent with evidence that Buyer or its representatives are licensed for such removal and shall comply with all applicable local, state and/or federal rules, laws and regulations. Agent, its agents or representatives shall not be responsible for its containment, storage or removal. Buyer shall indemnify, defend and hold Agent harmless with respect to all costs, expenses, liabilities, damages or claims, including attorneys' fees, asserted by any person, entity or governmental agency or against Agent directly or indirectly relating in any manner to any hazardous or toxic materials which may be regulated under applicable laws, rules or regulations and which relate in any way to the dismantling and removal of any purchased item. Agent shall in no event be obligated to sell any item which contains any hazardous materials or to incur any costs or expenses relating in any manner, either directly or indirectly to any hazardous materials. Buyer shall be responsible for any and all remediation costs relating to the dismantling and removal of any purchased item containing hazardous materials, whether or not such hazardous materials were known to Buyer prior to Buyer's purchase, as Buyer is expected to have conducted all necessary due diligence to assess and determine the presence of hazardous materials within purchased items. Buyer will not bring any Hazardous Materials onto the premises.

17. **Acts of Others.** Persons in attendance during inspection, sale or removal of Items assume all risks of damage or loss to persons, property, or Items and shall exercise proper precautions at all times for the protection of persons and property and shall comply with all safety and health requirements as directed by Agent, and local, state and federal regulations. Neither Agent, its employees, Seller, landlords, or their representatives shall be liable by reason of any defect in or about the condition of the premises on which the sale is held. Buyer specifically releases Agent, its employees, Seller, landlords and their representatives from all liability thereof.

18. **Limits of Liability.** In no event shall Agent's liability to Buyer exceed the purchase price actually paid for an individual item or lot. A Buyer's claim shall be limited to the amount paid for the merchandise, and shall not extend to any obligation, risk, liability, right, claim, remedy for loss of use, revenue or profit, liability of Buyer to any third party, personal injury, or any other direct, indirect, incidental or consequential damages. Buyer further acknowledges that each item it purchases at the sale represents a separate transaction, and that

<sup>1</sup> As used herein, "Hazardous Materials" means any toxic or hazardous substance, material or waste which is regulated by any local or US governmental authority, including, but not limited to, any material or substance whether in the form of a solid, liquid, gas or any other form whatsoever, which by any Governmental Requirements either requires special handling in its use, transportation, generation, collection, storage, handling, treatment or disposal, or is defined as "hazardous" or harmful to the environment.

# Terms of Sale – Tiger Commercial & Industrial

no one transaction shall be conditioned upon another transaction. Buyer hereby holds Agent, Seller and Landlords harmless from: (1) the acts or omission of any party who provided any Items to Agent for sale, (2) the acts or omission of the owner or Lessor of the Sale Site or the site where the Items are stored, (3) any claims Buyer may have against Agent, Seller, Landlords, or any former owner of the property being sold, (4) Buyer's failure in any way to properly inspect Items and/or fulfill its obligations per the terms and conditions of the sale, as indicated within this document or as announced by Agent at the time of sale. In the event Buyer provides a deposit or payment using a Credit Card, Buyer acknowledges that it is purchasing under the As-Is, Where-Is terms of the Sale and that Buyer shall waive all rights of charge back based on any claims of misrepresentation, non-delivery or non-performance.

**19. Assignment of Rights.** Buyer acknowledges that its failure to comply with the Terms of Sale may result in damages incurred by Agent, Seller and/or Landlords ("Damaged Party"). Buyer hereby authorizes Agent to assign Agent's rights under this Agreement to any Damaged Party, so that the Damaged Party may pursue Buyer directly to recover losses incurred.

**20. Right of Removal.** Agent reserves the right to remove any person from the Sale Site and further reserves the right to deny registration or participation to any party and may revoke such privilege at any time.

**21. Indemnification.** Buyer shall indemnify, hold harmless and defend Agent, Seller and Landlords, from and against any and all losses, damages, liabilities and claims, including attorney fees, costs and expenses arising out of based upon or resulting from: (1) failure to secure all safety equipment and to meet all applicable government safety standards in removing items purchased or used by Buyer, (2) failure to comply with safety instructions issued to Buyer from Agent, (3) any act or omission of Agent, Seller, Landlords or their respective agents, representatives or employees, relating to or affecting the items purchased by Buyer, (4) the claim of any third party claiming or challenging title to any items purchased by Buyer or claiming infringement of any proprietary interest, (5) the claim of any person resulting from Agent offering for sale or selling the items purchased by Buyer, (6) any injury to Buyer or any other person or property of any type whatsoever caused during the inspection, dismantling, removing or transporting of items purchased by Buyer.

**22. Bidder's Number.** The bidder's number is nontransferable. All bids made using the bid number will be the responsibility of Buyer.

**23. Governing Law.** The validity, construction and performance of these Terms of Sale shall be governed by the substantive law of the State of California as applied to agreements among California residents entered into and to be performed entirely within California, without giving effect to its conflict of laws provisions. The prevailing party shall be entitled to reimbursement by the losing party of all statutory and non-statutory costs and expenses, including, but not limited to, all of its attorney fees.

**24. Severability.** If any provision of these Terms of Sale is deemed to be illegal, invalid, or unenforceable, the legality, validity, and enforceability of the remaining parts shall not be affected.