



**Auction: Restaurant Auction**

**Auction Date: Rescheduled to Thursday, September 20, 2018 @ 10:00 AM**

**Terms & Conditions:**

**PAYMENT AND BIDDER AGREEMENT**

The following, as amended from time to time, including by any posted notices or announcements during the sale, constitutes the entire terms and conditions, on which lots listed in the online catalog shall be offered for sale or sold by Atlantic Asset Management Group, Inc. ("AAMG"). PLEASE READ THIS AGREEMENT IN ITS ENTIRETY PRIOR TO BIDDING. Any AAMG auction is conducted under these terms and conditions and applicable state, federal and local law. Any person participating or registering for an AAMG auction agrees to be bound by and accepts these terms and conditions. AAMG herein refers to and includes, the company, its representatives, officers, directors, stockholders, members, managers, employees, consultants, agents, and affiliates. Any announcements or corrections made during a specific auction supersede the terms of this Payment and Bidder Agreement for such auction.

THIS AGREEMENT BINDS YOU TO ARBITRATION AND BY AGREEING TO THE TERMS HEREIN YOU FORGO YOUR RIGHT TO BRING ANY LAWSUIT AGAINST AAMG. BIDDER SHOULD REVIEW THESE TERMS AND CONDITIONS CAREFULLY PRIOR TO BIDDING ON ANY LOTS.

BY BIDDING, THE BIDDER AGREES TO AAMG'S SHIPPING AND HANDLING POLICY AND ANY OTHER CHARGES, WHETHER KNOWN OR NOT TO BIDDER AT THE TIME OF BID. BIDDER FURTHER AGREES THAT NEITHER DELIVERY OF AN ITEM AFTER THE DATE DESIRED OR EXPECTED BY BIDDER OR LOSS OF AN ITEM BY A THIRD-PARTY DELIVERY ENTITY GIVES RISE TO A CAUSE FOR A CHARGEBACK CLAIM AND BIDDER SPECIFICALLY AGREES TO REFRAIN FROM THE FILING OF ANY SUCH CLAIM.

**TERMS AND CONDITIONS OF SALE**

1. All property is sold "AS-IS, WHERE IS, WITH ALL FAULTS" & no warranty other than clear title by deed. All property is being offered and sold in its "As Is"/"Where As" condition at the time of the Auction with all faults, including any hidden defects of any nature. Neither Auctioneer nor Seller makes any representations, warranties or guarantees whatsoever, express or implied, regarding the nature, value, source, authenticity, fitness, merchantability, and/or any other aspect or characteristics of such property. No statement anywhere, whether express or implied, including verbal statements made by Auctioneer, will be deemed a warranty or representation by Auctioneer or Seller without limiting the generality of the foregoing. There are no warranties of title, non-infringement, authenticity, origin, merchantability, or fitness for a particular purpose, all of which are expressly disclaimed. Each Bidder acknowledges and agrees that such Bidder cannot rely, and has not relied, on any representation, warranty or guaranty made by the Seller or anyone acting as Agent of the Seller, orally or in writing, about the property, or any of it. By Bidding, each Bidder acknowledges and agrees that such Bidder has had a full and fair opportunity to inspect the property and is relying solely on, or has waived, such Bidder's inspection and investigation (i) in determining whether to bid, (ii) in determining the amount of a bid, (iii) in bidding. Descriptions are provided as a service to customers only and do not constitute a warranty, either expressed or implied. Auctioneer disclaims all responsibility for physical location. All buyers are responsible for prior inspection of properties on which they bid, and by bidding are deemed to have so inspected the property. By placing a bid, in any capacity, you signify that you have examined the items as fully as you desire and have had the opportunity to ask questions and receive answers from AAMG that you deem adequate. If you require absolute certainty in all areas of authenticity, and the results of your evaluation leave uncertainty in your mind, do not bid on the lot in

question. We are not affiliated with any government entity and not all of the items sold were seized. Items sold by us are sourced from multiple channels and there are no assurances that any of the items being sold have been seized.

2. Neither AAMG nor the consignor, as applicable, make any warranties or representations of any kind or nature with respect to property or its value. In no event shall AAMG be responsible for the correctness of description, genuineness, attribution, provenance, authenticity, authorship, and completeness, condition of property or estimate of value. Any appraisals, Estimates (as defined herein) or evaluations provided are solely for the convenience of the Bidder and AAMG makes no warranties of any kind relating to them. Appraisals may include valuations which reflect the full, highest retail price of the item in a specific geographic region. The terms Estimate or Estimated Value (collectively "Estimate") as used herein may be an arbitrary value and may fail to represent an actual resale value, insurance replacement value, or cost of a similar good. Similarly, no appraisal value should be considered to represent the actual resale value, insurance replacement value, or cost of a similar good. No statement (oral or written) shall be deemed such a warranty or representation, or any assumption of responsibility. In no circumstance will a vastly different appraisal or estimate of any third-party given on behalf of a purchaser in an AAMG auction be grounds for a return, cancellation or refund. All measurements given are approximate and within industry standards and customs.

3. In no event shall AAMG's liability for any breach, or act or omission exceed the Purchase Price (as defined herein) actually paid by the buyer. In no event shall AAMG have any liability under any circumstances for special, indirect, incidental or consequential damages (including for loss of profits or revenue, costs of obtaining alternative property, claims of customers of buyer or otherwise), whether in contract, tort, negligence, strict liability, or otherwise, arising out of, resulting from or in any way relating to the lot or its purchase, sale, delivery or non-delivery, or the acts or omissions of AAMG.

4. All bidders are required to give full identification and register to receive a bidder number upon arrival at auction site, or online before bidding. A Bidder's Deposit shall not be required at the time of registration to receive a Bidder Number. The Bidder Deposit of the Winning Bidder shall be applied to the payment due and all other non-winning Bidders shall have their Bidder Deposit returned after the close of the Auction. For all online auctions, all bidders are required to provide credit card information at the time of registration. Successful online bidders will be charged for total amount of invoice upon completion of the auction. Receipt of a bidder number online or on site, upon completed registration, implies an understanding of the legal obligation of all AAMG auction terms and conditions.

Each Registered Bidder is responsible for the Bidder Number issued to such Registered Bidder. Auctioneer is not responsible for monitoring or policing the use of Bidder Numbers, and each Registered Bidder is responsible for all bids made on the Bidder Number issued to such Registered Bidder even if the Registered Bidder claims that the Bidder Number was lost, stolen, or misappropriated, unless notice of a lost, stolen, or misappropriated Bidder Number was provided to Auctioneer prior to an unauthorized bid being made. Absent a clerical error, Auctioneer's recording of bids against a Bidder Number will be conclusive.

5. The successful bidder is the highest bidder acknowledged by AAMG. In the event of any dispute between bidders, or in the event of doubt on AAMG's part as to the validity of any bid, then AAMG will have the final discretion either to determine the successful bidder or to re-offer and resell the article in dispute. If any dispute arises after the sale, AAMG's sale record is conclusive. While AAMG makes every effort to guarantee accuracy, in the event of a mistake on the part of auctioneer, and a lot is accidentally declared sold by mistake of the auctioneer, AAMG reserves the right to cancel the sale and relist the lot in its sole discretion. Bids may be received by AAMG through the internet, telephone, facsimile, or e-mail. Bidding through a telephone, facsimile, or e-mail, are only available to pre-qualified dealers or resellers. If you desire to register as a qualified dealer, please contact one of our dealer development specialists to receive an application. Approval as a qualified dealer is at the sole discretion of AAMG and requires a bank approved line of credit that is reviewed and approved by a dealer development specialist at AAMG.

6. The bidder assumes full responsibility for items at the fall of the hammer (or expiration of time in an online auction). A bid entered by mistake on the part of a bidder is NOT grounds for a cancellation of the bid. Each bidder is responsible for his or her own account and bids. By allowing access to another who enters a bid without your knowledge will NOT be grounds for a rescission of the bid(s). Therefore, any bid made on your account will bind you to the bid in accordance with these terms. If an entity places a bid on a lot, then the

person executing such bid on behalf of the entity hereby agrees to personally guarantee payment for any successful bid.

7. All bids are subject to (i) a non-refundable fifteen percent (15%) buyer's premium on-site or eighteen percent (18%) buyer's premium for on-line bidders, which shall be added to a successfully placed bid upon sale of each lot, (ii) any applicable local sales tax, and (iii) shipping and handling costs that are more fully described in the section entitled "Shipping and Handling" below (collectively, the "Purchase Price"). Any bidder that represents a purchaser is personally and individually responsible for any obligations of the purchaser set forth in these terms and conditions. All purchasers purchasing pursuant to a valid resale license will need to provide appropriate documentation for removal of state sales tax.

8. Bidder's bid at all times represents an irrevocable offer by bidder to enter into a binding contract to purchase the lot in accordance with the specific provisions of the listing and these general terms and conditions, as applicable, even if a higher bid was received by AAMG. In the event that any reserve price of a lot is not exceeded by any bidder's bid, AAMG, in its sole discretion, with or without the knowledge of or notice to any bidder, may reduce any reserve price to an amount below the bid of bidder at any time during an auction and accept the bid made by bidder. Reserve prices are always the confidential information of AAMG and are not disclosed to bidders unless specifically stated as such during bidding. Nothing contained in any listing shall be construed to disclose any reserve price. In the placing of any bid the bidder understands and agrees that the bid, once accepted by AAMG, will be the winning bid if there is no higher bid by another bidder and if any reserve or reduced reserve on the lot is exceeded by the bid. All bids are binding, irrevocable and non-cancelable by bidder. AAMG has final discretion on sale of a lot. The decisions of AAMG are final. In the unlikely event that we lose our internet connection, AAMG reserves the right in its sole and absolute discretion to cancel the remainder of the auction.

9. Pre-Auction Bids, if applicable, shall be allowed prior to the Auction day. All Bidders electing to submit a Pre-Auction Bid must register and abide by the same Terms and Conditions for Auction day. Pre-Auction Bids will be presented to the Seller for their review and consideration. Seller shall have the right to accept the Pre-Auction Bid and cancel the live auction. Agent and/or Seller shall also have the right to accept, reject or open live auction with Pre-Auction Bid, at their discretion. Agent and/or Seller shall also have the right to disclose the high Pre-Auction Bid to other registered Bidders who will have an option to submit a Pre-Auction Bid only if the new Pre-Auction Bid is at least ten percent (15%) greater than the current bid.

10. Auctioneer will not be responsible for technology disruptions, errors, or failures (including disruptions to bidding or the failure to execute, recognize, or record online bids), whether caused by (i) loss of connectivity, breakdown, disruption, or failure of the Online Auction Platform, (ii) breakdown, disruption, or failure of a Bidder's internet connection, computer, or system, or (iii) otherwise. Auctioneer may, but will not be required to, continue, suspend, delay, extend, reschedule, or close the Auction because of disruptions caused by technology failures, even after bidding has commenced.

11. Auctioneer may use an Online Auction Platform Provider to facilitate the Auction. Under no circumstances will Auctioneer be liable for any failure of the Online Auction Platform Provider to perform all or any of its obligations, or for the failure of any affiliates, employees, agents, representatives, or contractors of the Online Auction Platform Provider to perform their obligations.

12. PAYMENT:

**Live Auction** – Upon the close of the Auction, the winning Bidder shall be required to pay fifteen percent (15%) of the Purchase Price. (Winning Bid Amount + 15% Buyer's Premium = Purchase Price). Bidder's deposit, if applicable, can be applied to the 15% Purchase deposit. All payments shall be in the form of cash, credit card, certified or cashier's check. The balance of the Purchase Price shall be due at the close of the auction.

**Online Auction** - All bidders must register for online auctions with a credit card. We accept Visa, MasterCard, Discover and American Express. We do not accept PayPal payments. For items purchased online, an eighteen percent (18%) Buyer's Premium shall be required and you will be emailed an invoice within 24 hours after the auction and full amount of invoice will be charged to the credit card provided at the time of registration. Payments made in person can be in the form of cash, Visa, Master Card, Discover, American Express and cashier's check.

AAMG reserves the right to hold all purchases until full payment has been made to the satisfaction of AAMG. If we are prevented by fire, theft, or any other reason whatsoever from delivering any property to the

purchaser, our liability shall be limited to the sum actually paid, by the purchaser for such property. IF IN ITS SOLE DISCRETION AAMG AGREES TO REFUND A PURCHASE YOU WILL BE CHARGED A 15% RESTOCKING FEE OF THE HAMMER PRICE AND YOU WILL STILL BE RESPONSIBLE FOR SHIPPING AND HANDLING FEES AS WELL AS RETURN SHIPPING. THE PREVIOUSLY PAID BUYER'S PREMIUM IS NOT REFUNDABLE. PLEASE BID RESPONSIBLY AND DIRECT ANY QUESTIONS YOU MAY HAVE PRIOR TO PLACING A BID.

13. LIQUIDATED DAMAGES: IN THE EVENT THAT YOU BID AND ARE DEEMED THE WINNER OF AN ITEM BY AAMG, BUT FAIL TO MAKE PAYMENT IN ACCORDANCE WITH THE INVOICE SENT TO YOU OR CLAIM A DISPUTE WITH ANY THIRD-PARTY PAYMENT INTERMEDIARY, SUCH AS A CREDIT CARD COMPANY, YOU WILL BE ASSESSED A CHARGE OF 15% OF THE HAMMER PRICE AS LIQUIDATED DAMAGES. BY BIDDING ON ANY SUCH LOT YOU HEREBY AGREE TO THE PAYMENT OF SUCH LIQUIDATED DAMAGES AS A RESULT OF THE IRREPARABLE HARM THAT WILL BE SUSTAINED BY AAMG. FURTHERMORE, IN THE EVENT THAT A WINNING BIDDER FAILS TO MAKE ANY PAYMENTS UNDER THESE TERMS AND CONDITIONS, INCLUDING THE LIQUIDATED DAMAGES DESCRIBED HEREIN, WE RESERVE THE RIGHT TO REPORT SUCH NONPAYMENT TO CREDIT AND COLLECTION AGENCIES IN OUR SOLE DISCRETION.

14. AAMG reserves the right to reject any bid at any time and at his sole discretion. AAMG additionally reserves the right in its sole and unlimited discretion at any time prior to, during, or even after the close of the auction to exclude any person or individual bid and to award any lot to the highest accepted bid. AAMG reserves the right to withdraw any lot at any time before, during, or after the auction without liability. AAMG reserves the right to delay, change or extend an auction without liability.

15. On the fall of the auctioneer's hammer (or expiration of time in an online auction), ownership of the offered lot will pass to the highest bidder acknowledged by the auctioneer, subject to fulfillment by such bidder, of all the conditions set forth herein, and such bidder thereupon, a) assumes full risk and responsibility thereof, but not limited to, insurance, fire, theft, removal and storage or damage from any and all causes, and b) will pay the full Purchase Price thereof or such part as we may require. In addition to other remedies available to us by law, we reserve the right to impose a late charge of 1.5% per month of the total Purchase Price if payment is not made in accordance with the conditions set forth herein. If any applicable conditions herein are not complied with by the purchaser, in addition to other remedies available to us and the consignor by law, including, without limitation, the right to hold the purchaser liable for the total Purchase Price, we at our option may, a) cancel the sale, retaining all payments made by the purchaser, b) resell the property at public auction with or without reserve, and the purchaser will be liable for any deficiency costs including handling charges, the expenses of both sales, our commissions on both sales at our regular rates, reasonable attorney's fees, incidental damages, and all other charges due hereunder, c) reject future bids from the buyer or render such bids subject to payment of a deposit, d) charge interest at 18% per annum from the date payment became due until the date the Purchase Price is received in cleared funds, e) subject to notification of the buyer, exercise a lien over any of the buyer's property which is in the possession of AAMG and no earlier than 30 days from the date of such notice, arrange the sale of such property and apply the proceeds to the amount owed to AAMG or any of our affiliated companies after the deduction from sale proceeds of our standard commission rates and sale-related expenses, f) commence legal proceedings to recover the Purchase Price, together with interest and the costs of such proceedings, g) set off the outstanding amount remaining unpaid by the buyer against any amounts which AAMG, or our affiliated companies, may owe the buyer in any other transactions, or h) take such other action as we deem necessary or appropriate. In the event that such a buyer pays a portion of the Purchase Price for any or all lots purchased, AAMG shall apply the payment received to such lot or lots that AAMG, in its sole discretion deems appropriate. In the case of default, purchaser shall be liable for legal fees, costs and expenses associated with an attempted collection of payment from purchaser. In addition, a defaulting purchaser will be deemed to have granted us a security interest in, and we may retain as collateral security for such purchaser's obligations to us, any property in our possession, owned by such purchaser. Furthermore, in the event that a purchaser fails to make any payments under these terms and conditions, a 15% charge as liquidated damages will be administered as described in Section 10. We hereby reserve the right to report such non-payment to credit and collection agencies in our sole discretion.

16. AAMG, and any consignors, reserve the right to bid on any lot(s). Unless explicitly stated otherwise, all lots are subject to a reserve price that shall be hidden from all bidders. AAMG shall act to protect the reserve by bidding in the auction process if needed. AAMG may open bidding on any lot below the reserve by

placing its own bid. AAMG may continue to bid on behalf of itself up to the amount of the reserve, either by placing consecutive bids or by placing bids in response to other bidders.

17. If any dispute occurs between a bidder and AAMG that cannot be resolved, then the parties agree to the rules, regulations and procedures of the dispute resolution described herein and agree to the following procedures for resolution of the dispute: If either party alleges that the other party is in default under this agreement, then the dispute or allegation shall be submitted to binding arbitration in the Commonwealth of Virginia. AAMG shall select a neutral arbitrator. The arbitration process shall be initiated by either party requesting arbitration which must be served upon the other party by certified mail. Failure to participate in the arbitration is a default. In the event that an arbitration procedure is initiated by request of a bidder, the bidder shall bear the financial burden of fees to be paid to an arbitrator to that maximum amount available by law. Each party shall simply present their case (limited to a maximum of one hour for each party) to the arbitrator. By bidding on any lot, the bidder hereby agrees and acknowledges that it is completely waiving its rights to have the dispute heard in a court of law. The bidder agrees that the arbitrator shall have complete jurisdiction over the dispute and can issue an award to the prevailing party. Arbitration fees shall be paid by the party prevailing in the dispute or as seen fit by the arbitrator. Any award determined by the arbitrator shall be binding and the prevailing party shall be awarded full reimbursement of its actual paid fees in connection with the dispute. By participating in an AAMG auction, bidder specifically agrees to the dispute resolution specified in the foregoing paragraph as bidder's SOLE means to resolve any and all disputes which may arise with AAMG. By doing so bidder specifically agrees that bidder will not file a dispute of any kind with an online venue, a credit card, or any other third-parties. Bidder specifically waives the right to initiating a credit card chargeback dispute on any basis of claim and agrees that bidder will pay AAMG a minimum of \$300 plus hourly charges and costs for any such chargeback dispute opened, due to the severe administrative burden of such disputes and their direct violation of the dispute provisions above. In the event that Bidder violates this dispute resolution provisions, in consideration of AAMG's approval of the application of the bidder to bid in AAMG's auction, bidder confesses judgment to fraud having been committed by bidder against AAMG and further agrees that bidder is liable to AAMG for all damages, losses and costs, including time charges, resulting.

18. The bidder hereby waives, releases, remises, acquits, and forever discharges AAMG and any consignor, and shall indemnify and hold them harmless against any claims, actions, cause of action, demands, rights, damages, costs, expenses, or compensation whatsoever, direct or indirect, known or unknown, foreseen or unforeseen, which the bidder now has or which may arise in the future on the account of or in any way growing out of or connected with any defects, latent or otherwise, or the physical condition of any items or lots purchased or any law or regulation applicable thereto. AAMG or consignor shall provide notice to bidder promptly of any such claim, suit, or proceeding

19. If any provision of these terms and conditions or of any listing be void, unlawful or unenforceable under applicable law, that provision shall be modified to the minimum extent possible to comply with applicable law, or if modification is not possible, deleted and severed from the remaining provisions. Any such modification, deletion or severing shall not affect the enforceability or validity of any of the remaining provisions.

**20. Removal, Pick-up, Shipping**

The successful Bidder is responsible for the proper removal and/or pick-up of the assets purchased by Saturday, September 15, 2018, 2 PM. Pick-up times will be September 20<sup>th</sup> upon the conclusion of the auction until 4:30PM; Friday, September 21st, 10 AM to 3 PM and September 22nd, 10 AM to 2 PM. Contact our office at 757-461-6867 with any questions regarding pick-up.

Shipping arrangements are the responsibility of the successful bidder. An estimate for packing, removal and/or storage of the assets, at the successful Bidder's expense, may be provided by Security Storage & Van of Norfolk. We also recommend Craters & Freighters at [www.cratersandfreighters.com](http://www.cratersandfreighters.com) or toll free at (866) 283-6608.

WILL CALL IS NOT AVAILABLE AS WE DO NOT KEEP ANY INVENTORY AT OUR OFFICES DUE TO SECURITY CONCERNS. ALL ORDER FULFILLMENT TAKES PLACE AT A DIFFERENT SECURE LOCATION. WE ARE NOT RESPONSIBLE FOR ADDITIONAL FEES INCLUDING BUT NOT LIMITED TO VAT DUTIES, BROKER FEES, AND OTHER IMPORT FEES.

21. These terms and conditions, the contents of any listing and the contractual relationship between AAMG and any bidder shall be interpreted under and governed by the laws of the Commonwealth of Virginia.

**\*\*IMPORTANT - PLEASE READ\*\***

AS YOU HAVE ACKNOWLEDGED BY AGREEING TO THE TERMS AND CONDITIONS OF THIS AUCTION, THERE ARE NO REFUNDS OR EXCHANGES. IN THE EVENT THAT YOU REQUEST AND ARE GRANTED BY AAMG, A RETURN OR REFUND, YOU AGREE THAT YOU ARE STILL RESPONSIBLE FOR PAYING A 15% RESTOCKING FEE BASED ON THE HAMMER PRICE OF EACH ITEM THAT IS RETURNED, LESS APPLICABLE TAXES, PLUS THE ENTIRE BUYER'S PREMIUM FOR EACH ITEM. ACCORDINGLY, THE RESTOCKING FEE, BUYER'S PREMIUM ARE NEVER ELIGIBLE FOR A RETURN OR REFUND. IN THE EVENT THAT YOU REFUSE PAYMENT FOR A WINNING BID YOU WILL BE SUBJECT TO A 15% LIQUIDATED DAMAGES CHARGE OF THE HAMMER PRICE AS MORE FULLY DESCRIBED IN SECTION 10 HEREIN.

Please email [info@atlanticremarketing.com](mailto:info@atlanticremarketing.com) with any specific questions.

**William J. Summs, CEO, AARE – Auctioneer VA/AF #359**

1195 Lance Road, Norfolk, VA 23502 | Office Phone: 757.461.6867 | Cell Phone 757.286.6460

[www.atlanticREmarketing.com](http://www.atlanticREmarketing.com)