

ADESA, Inc.
and all of its Auction Subsidiaries
Auction Terms and Conditions
(03/27/09)

In consideration of ADESA, Inc. on behalf of its auction subsidiaries ("ADESA") allowing an automobile dealer or an automobile dealer's Authorized Representative(s), as defined below (in either instance, the "Dealer"), to purchase and sell motor vehicles at ADESA's auction facilities (the "Auction"), Dealer, as purchaser or seller, as applicable, agrees to the following terms and conditions ("Auction Terms and Conditions"):

1. ADESA as Consignee. All vehicles delivered to the Auction by Dealer for sale at the Auction ("Consigned Vehicle") are delivered on consignment by Dealer for ADESA to sell to other dealer patrons on behalf of Dealer. ADESA is a service company and does not purchase or sell Consigned Vehicles. Rather, ADESA facilitates transfers of ownership between Dealer and other dealer patrons of the Auction. ADESA reserves the right to refuse to do business with any Dealer in ADESA's sole discretion.

2. Dealer Eligibility and Applicable Rules. By participating as purchaser or seller in any sale at the Auction, Dealer represents that it is: (a) licensed in one or more states, or under the similar laws of a country outside the United States, to sell motor vehicles; (b) registered with ADESA; and (c) subject to the Terms and Conditions contained herein and other applicable auction rules, including but not limited to any local auction rules, as a condition of doing business at the Auction. Dealer shall be considered registered with ADESA if Dealer has been registered through the computer system at any automobile auction owned and operated by an affiliate of ADESA, Inc., the parent company of ADESA. Dealer's application for registration with ADESA shall constitute (1) authorization to ADESA to investigate Dealer's (including its principals) credit history, and (2) authorization to release any information whatsoever regarding Dealer to any automobile auction, subsidiary or other affiliate of ADESA Corporation, including but not limited to Automotive Finance Corporation (AFC). Dealer agrees to execute any documents required by any bank or financial institution to release financial information to ADESA. While ADESA auctions endeavor to operate according to uniform rules and procedures where possible, the Auction Terms and Conditions of the auction where a consignment or sale occurs shall govern such transactions.

3. ADESA Card. Upon approval by ADESA of the Dealer Application submitted to ADESA, ADESA will open an account for Dealer ("Account") and Dealer shall be issued a photographic identification card ("ADESA Card") authorizing Dealer to purchase and sell Consigned Vehicles at the Auction. Dealer's Application and subsequent use of the ADESA Card at any ADESA Dealer Kiosk or customer service counter represents Dealer's agreement to the Auction Terms and Conditions and agreement to pay any amounts due ADESA as a result of such use of the ADESA Card.

4. Sale Procedure. Unless the seller designates the sale as an "if" sale, all sales will be consummated when the auctioneer's hammer falls, with the auctioneer calling out the purchaser's bid badge number and the block clerk recording that sale and all the specific terms thereof. "If" sales shall be final and binding only when the highest bid is accepted by the seller and recorded or a subsequent offer or counteroffer is accepted and recorded. A Dealer, as seller or purchaser, will be bound by the recording of the purchase and sale and the terms thereof, as orally announced to such parties. Audio and/or video recordings of the bidding process will be relied upon in the case of a dispute.

5. Service Fees. Dealer agrees to pay all customary fees and charges of ADESA for services rendered in connection with the purchase and sale

of Consigned Vehicles, including, without limitation, seller fees, purchaser fees, entry fees, storage fees, NSF check fees, title attached fees, cleaning fees and other customary fees and charges, each as applicable. Dealer further agrees to reimburse ADESA for all fees and charges paid by ADESA in connection with the transfer of title of Consigned Vehicles. Auction reserves the right to and may have arrangements with certain customers that result in reduced fees or the payment of discounts/rebates associated with the sales of vehicles, including a marketing assessment in the form of premium buyer fees.

6. Use of Auction. All purchase and sale transactions originating and/or consummated at the time a Consigned Vehicle is on the Auction premises shall be completed through ADESA with Dealer responsible for the appropriate fees.

7. Payment Terms. All Consigned Vehicles purchased by Dealer must be paid for, and all ADESA transaction fees and charges paid, on day of sale. ADESA may set off from amounts it owes Dealer, whether based on proceeds of sales or otherwise, any amounts Dealer owes ADESA. Further, ADESA may retain possession of any vehicles owned or controlled by Dealer and/or withhold title documents until all NSF checks, related service charges or any other amounts owed by Dealer to ADESA have been paid. With each and every payment to ADESA by check or draft, by or on behalf of Dealer, Dealer represents and warrants (regardless of whether Dealer is the drawer of the check or draft) that, at the time of issuance of the check or draft and at the time such check or draft may be presented for payment, the account upon which such check or draft is drawn contains then available funds sufficient for payment of that check or draft. Any checks and/or drafts returned for non-sufficient funds ("NSF") must be settled and replaced immediately with cash or certified funds to prevent collection action. Upon return of any NSF check or draft, a service charge will be imposed and must be paid. Thereafter, ADESA will review Dealer's financial ability and may in its discretion require that any future transactions be strictly cash. Dealer shall not under any circumstance stop payment on a check or refuse to honor a draft. Dealer shall pay all legal costs, including, without limitation, attorney fees and court costs, necessary for ADESA to collect any moneys owed to ADESA by Dealer.

8. Security Interest. In order to secure final payment of any indebtedness owing to ADESA arising out of the sale of a Consigned Vehicle purchased by Dealer at the Auction, Dealer hereby grants to ADESA a security interest (including a purchase money security interest where applicable) in any such Consigned Vehicle, together with all additions, accessions, accessories and replacements, and proceeds thereof, which security interest shall continue until all funds are collected with respect to such sale. Dealer authorizes ADESA to prepare and file a financing statement for such Consigned Vehicle without Dealer's signature being required thereon. Dealer acknowledges that AFC and/or AFC Cal, is authorized as agent to act on ADESA's behalf for UCC purposes. ADESA's security interest in any vehicles is assignable to any auction, subsidiary or other affiliate of ADESA, Inc., including but not limited to, AFC.

9. Warranties Regarding Title. Dealer covenants, guarantees and warrants that with respect to each Consigned Vehicle consigned by Dealer for sale through ADESA: (a) title to the Consigned Vehicle will be transferred valid and free from all defects, liens and encumbrances; (b) Dealer has the right and power to sell and transfer title to the Consigned Vehicle; and (c) Dealer will defend title against all claims and demands of any person.

10. Vehicle Identification Numbers. No Consigned Vehicles will be offered for sale without a proper vehicle identification number plate. ADESA reserves the right to refuse to sell any Consigned Vehicle on which the vehicle identification number plate appears marred or in any way altered or any Consigned Vehicle not originally manufactured for sale in the United States (European or Canadian conversions).

11. Auction Procedure. Consigned Vehicles shall be sold in accordance with the Auction's Policies and Procedures, a current written description of which Dealer acknowledges was provided to Dealer with these Auction Terms and Conditions, and which are incorporated herein by reference and made part of the Auction Terms and Conditions as if set forth herein in full.

12. No Warranties by ADESA. ADESA is neither responsible for the accuracy of odometer mileage on the Consigned Vehicle nor the information contained in the odometer mileage statement. ADESA does not make or guarantee any warranty, express or implied, including, without limitation, warranties of title, merchantability or fitness for a particular purpose, plates, service policy, vehicle history or condition, year of manufacture or mileage with respect to any Consigned Vehicle. ADESA, furthermore, disclaims the accuracy of any market information provided to Dealer through its computerized system or otherwise, which market information is provided as a courtesy to Dealer. The auction makes no representations or guarantees as to the description, equipment, condition, availability or validity of factory warrant regarding on any vehicle. All representations and warranties are made by or on behalf of the seller.

13. Delivery of Vehicle. Dealer is liable for all expenditures or any mileage on, or damage to, a Consigned Vehicle occurring after the Consigned Vehicle is purchased by and delivered into Dealer's possession but before title is conveyed to Dealer. Neither ADESA nor the selling Dealer shall be liable for any cost of repairs or other costs incurred by purchasing Dealer in the event title is not delivered and the purchasing Dealer returns the Consigned Vehicle. ADESA shall not be liable for titles mailed and not received by the Dealer.

14. Risk of Loss. ADESA shall not be liable nor responsible for acts of God, fire, theft, collision, vandalism, or any other damage sustained by any Consigned Vehicle while on or off the Auction premises. Dealer shall maintain such insurance on vehicles in ADESA's possession as Dealer in its sole discretion shall determine, it being understood that ADESA assumes no liability for loss or damage incurred while vehicles are in the possession of ADESA.

15. Claim Indemnity. Dealer shall indemnify, defend and hold harmless ADESA, its parent company, affiliates, directors, officers, agents and employees, from and against any liability, loss, damage, cost, expense, claim, suit or demand, including, without limitation, attorneys' fees and other legal costs, resulting from, arising out of or connected with, directly or indirectly, any of the following: (a) purchase and sale of Consigned Vehicles, including, without limitation, title services provided by ADESA, odometer mileage, odometer mileage statements, breach of Dealer's warranty of title, or alleged misrepresentations of a Dealer regarding vehicle title, history, or condition; and (b) breach by Dealer of any other of these Auction Terms and Conditions.

16. Adherence to Safety. Dealer acknowledges his/her responsibility to become familiar with ADESA's posted and communicated safety measures and to strictly obey and adhere to such measures all times while on ADESA's premises. Dealer shall conform his/her own conduct in an alert, aware and safe manner at all times.

17. Assumption of Risk. Dealer acknowledges there is a certain amount of risk inherent in auction activity including serious injury or death.

Knowing, or having reason to know these facts, Dealer appreciates said risk; and voluntarily accepts and assumes said risk.

18. Release of Liability and Indemnity Agreement. By assuming the risk, Dealer and their guests irrevocably and unconditionally waive and release their rights (if any) to recover from ADESA, its directors, officers, employees, representatives, agents, subsidiaries, and affiliates any and all damages, losses, liabilities; cost or expenses and claims thereof, whether direct or indirect, known or unknown, or foreseen or unforeseen, through negligence or otherwise, which may arrive from, or be related to, bodily injury, property damage, or other occurrence on ADESA's premises. Under no circumstances, including negligence, shall ADESA be liable for any special, incidental, or consequential damage or lost profits that result from or are related to the sale, distribution or use of, or the inability to use, any vehicle, even if ADESA has been advised of the possibility of such damages. Dealer and their guests who are California residents waive California Civil Code §1542, which states: "A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor." Furthermore, Dealer agrees to indemnify, defend, and hold ADESA harmless from any and all damages, losses, liabilities, costs or expenses, arising from claims made by Dealer or Dealer's guests for bodily injury or property damage occurring on ADESA's premises.

19. Dealer's Representations Regarding Taxes. Dealer certifies that Dealer holds a certificate, license or other permit, issued by the sales tax authority of the state or province, and if necessary locality, of Dealer's automobile business or businesses which certificate, license or permit exempts Dealer from the payment of sales tax with respect to the purchase of Consigned Vehicles and bears the number or numbers set forth in the Dealer Application. Any Consigned Vehicles purchased by Dealer at the Auction are purchased for resale in the form of tangible personal property in the regular course of business and are of the sort usually purchased by the Dealer for resale. In the event that the property is used for any purpose other than for resale, Dealer will pay directly to the proper taxing authorities such sale or use tax as may then accrue and be due and payable.

20. Dealer's Representations Regarding Financial Information. Dealer further represents and warrants that the financial and other factual information contained in the Dealer Application is true, complete and accurate. Dealer authorizes an investigation of Dealer's credit history and any other history deemed necessary by ADESA, including, without limitation, Dealer's lending institution accounts listed in the Dealer Application. Dealer shall notify ADESA immediately of: (a) any change of its principal financial lending institutions; or (b) any other material changes in the financial or other information contained in the Dealer Application, including, without limitation, a change of ownership interest(s) in the Dealer whereby more than 10% of such interest is transferred by sale, purchase, gift, assignment or otherwise.

21. Authorized Representatives. Dealer authorizes the person(s) designated in the Dealer Application as "Authorized Representative(s)" to take or perform the following actions with respect to Consigned Vehicles: (a) purchase and/or sell Consigned Vehicles and complete and execute on behalf of Dealer papers conveying title, including endorsement of the certificate of title, odometer statements, bills of sale and other similar documents in connection with the sale of all Consigned Vehicles; and/or (b) complete and execute on behalf of Dealer checks and/or drafts in connection with the purchase or sale of Consigned Vehicles. The authority of the Authorized Representatives shall continue in full force and effect until terminated by Dealer in writing actually received by ADESA. New or additional representatives of Dealer must be authorized by Dealer in writing delivered in advance to ADESA. Dealer guarantees, as principal, all transactions made at the

Auction by Dealer's Authorized Representatives. No Authorized Representative shall be under the age of eighteen (18) years and neither Dealer nor its Authorized Representative(s) shall bring any person under such age onto the Auction premises as driver, assistant, observer or otherwise.

22. Changes to Auction Terms and Conditions. These Auction Terms and Conditions are subject to change upon written notice to Dealer. Use of the ADESA Card or completion of other business transactions through ADESA subsequent to delivery by mail to Dealer's place of business of such written notice shall be evidence of Dealer's acceptance of any changes to these Auction Terms and Conditions. Further, Dealer is subject to all other terms and conditions communicated in writing to Dealer, including, without limitation, terms and conditions posted conspicuously on bulletin boards or other signs located on the Auction premises.

23. Miscellaneous. No waiver of the provisions hereof shall be effective unless in writing and signed by ADESA. If any term, provision or section of these Auction Terms and Conditions is held invalid or

unenforceable, under any statute or court decision, or any governmental rule or regulation, the remainder of these Auction Terms and Conditions shall remain effective. These Auction Terms and Conditions shall bind the respective heirs, executors, administrators, successors and assigns of Dealer and inure to the benefit of ADESA and its successors, assigns and subrogees. These Auction Terms and Conditions and any and all agreements or authorizations executed by Dealer or ADESA in connection herewith shall be governed by and interpreted in accordance with the substantive laws of the State of Indiana without resort to principles of conflicts of laws. By execution of these Auction Terms and Conditions, Dealer submits to the personal exclusive jurisdiction of the courts of the State of Indiana and to venue in the Circuit and Superior Courts of Marion County, Indiana and the federal courts of the United States, sitting in Indiana for the adjudication of any matters arising under or in connection with these Auction Terms and Conditions. Any action initiated by Dealer against ADESA relating to these Auction Terms and Conditions shall be filed and conducted in said Courts. ADESA may bring any suit against Dealer under or related to these Auction Terms and Conditions in any Court of competent jurisdiction.

IN WITNESS WHEREOF, Dealer, or Dealer's duly authorized representatives, has (have) executed this Terms and Conditions this _____ day of _____, 20_____.

(If a sole proprietorship)

_____ (Auction ACCESS ID Number)

_____ (Printed Name of Dealer)

_____ (Signature of Dealer)

(If a corporation, partnership, limited liability company or some entity other than a sole proprietorship)

ATTEST: _____ (Printed Name of Corporation, Etc.)

_____ (Signature of Officer,

_____ (Printed Name and Title of Officer, Etc.)

_____ (Printed Name of Witness) _____ (Signature of Witness)