



## **Terms & Conditions of Purchase by Closed bid Auction**

### **GENERAL INFORMATION**

#### **1. Payment Information:**

Invoices will be emailed to successful bidders within 48 hours of the close of the auction.

2. Deadline for submission of bids: 12 midday California Time, on Thursday, 23rd May 2019.

3. Applicable taxes will be added to the purchase price of all taxable items.

4. Collection of applicable taxes will be in accordance with the laws of the state where the purchased asset is located.

5. Buyer's Premium: SDI-Fabsurplus shall charge and collect from each successful bidder a 5% buyers premium for each sale at the auction, in addition to the purchase price as bid.

Applicable sales tax will be levied on this premium .

6. All funds are to be paid in US Dollars.

7. Acceptable methods of payment include cash, wire transfer.

#### **8. Removal Information:**

Removal information will be included in your invoice. Buyers must complete the removal of items within the specified check-out period.

9. Buyers are responsible for removal of assets and all shipping and rigging charges.

10. Buyers or third party movers are mandatory to present a paid-in-full invoice to the on-site check-out personnel when removing their assets.

### **GENERAL TERMS AND CONDITIONS**

1. The services provided by SDI are governed by these Terms and Conditions. By participating in this auction, you consent to be bound by these Terms and Conditions as well as by any additional terms that may be imposed by the seller or announced at the auction.

2. All potential bidders must register their bid via e-mail before the bid submission deadline to [info@fab surplus.com](mailto:info@fab surplus.com) and return a copy of this contract signed via fax to the following fax number: USA (+1) 830-331-9063 or signed and scanned via e-mail to the e-mail address [info@fab surplus.com](mailto:info@fab surplus.com). SDI may, in its sole discretion, deny registration to any person or entity.

3. All assets in the auction shall be sold to the highest bidder; provided, however, that some assets may be auctioned with minimum reserve prices, and/or subject to sellers right of confirmation. SDI reserves the right to reject any bid that is only a minimal increase over the preceding bid, that is not commensurate with the value of the item being offered or that SDI believes was made illegally or in bad faith. Further, SDI, and/or its affiliates or subsidiaries, may bid at the auction either for its own account or on behalf of a third party. In the event of a dispute among bidders, SDI may, in its sole discretion, either accept what it deems to be the final bid or solicit further bids on the item in dispute. All sales are final. No returns or refunds will be permitted, unless authorized by the seller in writing.

4. In the event of any dispute concerning the winning bid price for an asset, the record kept by SDI shall control.

5. Bidders shall examine or inspect items prior to the day of the auction. **ALL ITEMS ARE SOLD AS IS, WHERE IS AND WITH ALL FAULTS. NEITHER SELLER NOR SDI MAKES ANY WARRANTY, EXPRESS OR IMPLIED, AS TO THE NATURE, QUALITY, VALUE OR CONDITION OF ANY ASSET. SDI AND SELLER EXPRESSLY DISCLAIM ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT.** SDI will announce if any item carries a manufacturers warranty at the time the item is offered for sale. Assets are intended to be sold without software, if any is applicable. In the event that a Seller's software is included in an asset sale, notwithstanding the

disclaimers set forth above, SDI makes no representations or warranties regarding the Buyer's right to use such software, as to the performance of the software, its non-infringement or otherwise. In such circumstances, SDI recommends that Buyer contact the software manufacturer directly to resolve any such issues.

6. SDI relies on information about assets in the auction provided by the seller. SDI undertakes no investigation of that information, and makes no representation or warranty concerning the truth or completeness of that information. Photographs are provided solely for the bidders' convenience and shall not be construed to create representations or warranties of any kind pertaining to the assets. Buyer acknowledges that it has had the opportunity to inspect all assets prior to tendering its bid and waives any and all claims against Auctioneer and/or seller relating to asset photographs or descriptions.
7. SDI shall charge and collect from each successful bidder a 5% buyers premium for each sale at the auction, in addition to the purchase price as bid.
8. Collection of applicable taxes will be in accordance with the laws of the state where the purchased asset is located.
9. Full payment of the purchase price is due at the close of business on the third business day after the payment deadline. The payment deadline shall be 17:00 PST on Friday, 31<sup>st</sup> May 2019. Without limiting the foregoing, full payment of the balance of the purchase price is due prior to removal of any purchased assets. In the event that a bidder fails to pay the entire purchase price (in addition to the buyers premium and any applicable tax) within the time specified by SDI or otherwise fails to comply with these Terms and Conditions, SDI and the seller will retain the deposit as liquidated damages without notice. SDI and the seller reserve the right to resell such items without notice, and the defaulting purchaser shall be liable to SDI and seller for any resulting deficiency, including costs incurred in storing and reselling such assets. In the event of such resale, the defaulting purchaser shall be liable to Auctioneer and seller for any resulting deficiency, including costs incurred in storing and reselling the assets in question. Any goods that have not been picked up within Friday, 28<sup>th</sup> June 2019 will be deemed "Abandoned" and the buyer will forfeit all rights to the abandoned goods and any money paid for such goods.
10. SDI accepts the following methods of payment: cash, wire transfer made payable to SDI-Fabsurplus LLC.
11. By participating in an auction, each bidder represents, warrants and covenants that (i) it shall not misrepresent its ability to close the transaction pursuant to the terms and conditions of sale, (ii) it has the capacity to close the transaction, (iii) it has actual authority to enter a bid, and to enter into an agreement to purchase the item, and (iv) any bid it makes on an item constitutes an irrevocable offer to buy the item for the full amount of the bid.
12. SDI may, in its discretion, offer the assets for sale by the piece or by the lot. The seller has the right to remove assets from the auction either before or after bidding has completed. In the event of a removal after bidding has been completed, the purchasers sole remedy shall be the refund of any purchase price actually paid.
13. SDI will announce any additions to or deletions from the catalog. SDI and the seller assume no responsibility for, and make no representations or warranties concerning, descriptions of assets contained in marketing materials for the auction. It is the bidders obligation to verify such descriptions prior to the auction.
14. Neither SDI nor seller shall be liable for any damages of any type or nature (whether in contract, tort or otherwise) sustained or claimed by any bidder or any other person or entity in connection with the auction. Without limiting the foregoing, in no event shall SDI's liability to any bidder for any act or omission occurring in connection with the auction exceed the amount that such bidder has actually paid to SDI as a deposit or as payment for a purchased item. It is the purchaser's sole responsibility to arrange and pay for the removal and shipment of purchased items. Also, it is the purchaser's responsibility to provide, and/or ensure their agent(s) performing removals on their behalf provide, upon demand, evidence of the following insurance policies with reliable insurance companies, and in the following amounts: \$2,000,000 combined

single limit, \$1,000,000 property damage and \$1,000,000 comprehensive general liability with contractual liability in the case of all riggers; and \$500,000 cargo and \$1,000,000 comprehensive general liability in the case of carriers; and such other insurance as may be required by any governmental authority, including workers compensation insurance. Removal shall be conducted responsibly and with due care for the seller's premises. The purchaser shall restore and repair all real and personal property that is altered or damaged as a result of the removal of purchased items. If the purchaser does not remove an item within the announced check-out period, SDI and the seller may, in their sole discretion, deem the item to have been abandoned by the purchaser and the purchaser will have no further rights with respect to the item. Notwithstanding the foregoing, SDI and the seller reserve the right to charge the purchaser for the costs of storage beyond the check-out period.

15. Bidders acknowledge that an auction site is a potentially dangerous place. Flammable, noxious, corrosive and pressurized substances may be present. Heavy equipment may be operated, and electrical circuits may be live. Every person enters the auction site at his or her own risk with notice of the condition of the premises and the activities that will be or have been conducted on the premises. Bidders shall so advise their agents and employees. No person shall have any claim against SDI, the seller or their respective agents or employees for any injuries sustained or for damages to or loss of property that may occur at the auction site.
16. It is the purchasers sole responsibility to meet all governmental safety and environmental standards in removing, shipping and using purchased items. Certain of the items for sale may contain hazardous substances, as that term is defined under federal, state or local environment laws and regulations. SDI has no duty to remove any hazardous substances that are contained in or are a part of any item. Purchasers agree to defend (by counsel satisfactory to SDI) and indemnify SDI and hold SDI harmless from and against any claim, demand, cause of action, liability or expense (including attorneys fees and costs) asserted against or incurred by SDI in connection with the sale, removal, shipment or use of any purchased items.
17. Purchasers agree to comply with all US export control and related laws, and acknowledge that SDI is not the exporter of any purchased item. Certain items offered for sale at the auction may constitute Restricted Technology. Under federal law, such items may not be shipped outside of the United States. SDI makes no representation or warranty concerning, and has conducted no investigation to ascertain which items, if any, constitute Restricted Technology. Seller reserves 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.
18. These Terms and Conditions, and all questions with respect to the interpretation of these Terms and Conditions, shall be governed by and construed in accordance with the internal laws of the State of Texas, without regard to conflict of laws provisions. All bidders expressly consent to personal and exclusive jurisdiction in the courts of the State of Texas.

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We, the undersigned, wish to submit a bid according to the general terms and conditions cited here above as follows:-

DETAILS OF BID

Equipment for which bid is made:

SDI ID Number: \_\_\_\_\_

Manufacturer: \_\_\_\_\_

Model: \_\_\_\_\_

Bid: \_\_\_\_\_ USD

DETAILS OF BID (Continued)  
Equipment for which bid is made:

SDI ID Number: \_\_\_\_\_

Manufacturer: \_\_\_\_\_

Model: \_\_\_\_\_

Bid: \_\_\_\_\_ USD

SDI ID Number: \_\_\_\_\_

Manufacturer: \_\_\_\_\_

Model: \_\_\_\_\_

Bid: \_\_\_\_\_ USD

SDI ID Number: \_\_\_\_\_

Manufacturer: \_\_\_\_\_

Model: \_\_\_\_\_

Bid: \_\_\_\_\_ USD

SDI ID Number: \_\_\_\_\_

Manufacturer: \_\_\_\_\_

Model: \_\_\_\_\_

Bid: \_\_\_\_\_ USD

SDI ID Number: \_\_\_\_\_

Manufacturer: \_\_\_\_\_

Model: \_\_\_\_\_

Bid: \_\_\_\_\_ USD

DETAILS OF BID (Continued)  
Equipment for which bid is made:

SDI ID Number: \_\_\_\_\_

Manufacturer: \_\_\_\_\_

Model: \_\_\_\_\_

Bid: \_\_\_\_\_ USD

(NB if you wish to make further bids, please use multiple bid forms)

SIGNED: : \_\_\_\_\_  
(Please sign above)

FULL NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_ DATE: \_\_\_\_\_

COMPANY NAME: \_\_\_\_\_

COMPANY ADDRESS: \_\_\_\_\_

\_\_\_\_\_

TEL: \_\_\_\_\_ E-MAIL: \_\_\_\_\_