



15735 N. IH-35 (Exit 346)
Waco, TX

www.wacomaa.com

NEW DELAERS APPLICATION PACKAGE

PLEASE FAX (254)829-1298
OR
MAIL DEALER PACKETS
PO BOX 154789
WACO, TX 76715

PLEASE BE SURE THE FOLLOWING ATTACED FORMS ARE FULLY COMPLETED AND PROPERLY SIGNED:

- _____ DEALER APPLICATION FORM MUST BE FULLY COMPLETED AND SIGNED BY OWNER/ OWNERS.
- _____ AUTHORIZATION FOR ALL BUYERS OTHER THAN THE OWNER
- _____ SIGNED ACKNOWLEDGEMENT OF AUCTION TERMS, AND CONDITIONS
- _____ PERSONAL GURANTY FORM SIGNED BY OWNER
- _____ BANK AUTHORIZATION RELEASE LETTER SIGNED BY OWNER/OWNERS
THEIR WILL BE A RETURN DRAFT FEE FOR ANY DRAFT RETURNED AS A RESULT OF A BANK CHANGE IF
THE AUCTION HAS NOT BEEN NOTIFIED.
- _____ BANK CREDIT LETTER MUST BE COMPLETED AND SIGNED BY THE OWNER
- _____ POWER OF ATTORNEY FORM SIGNED BY THE OWNER
- _____ RELEASE AND WAIVER OF LIABILITY AND INDEMNITY AGREEMENT.

WE MUST HAVE A COPY OF THE FOLLOWING DOCUMENTS:

- _____ CURRENT COPY OF DEALER LICENSE
- _____ COPY OF DEALERS BOND
- _____ COPY OF DRIVER'S LICENSE FOR ALL BUYERS, INCLUDING THE OWNER
- _____ COPY OF COMPANY CHECK

We at Midway Auto Auction appreciate your business and prompt cooperation in this matter. If you should have any questions please feel free to contact us at: (254)829-0123

**DRIVERS ARE NOT ALLOWED ON THE LOT OR IN THE LANES DURING THE SALE, BUT
MAY WAIT IN THE LOUNGE. ONE GUEST PER DEALER! NO RETAIL CUSTOMERS
ALLOWED!!!!!!! NO EXCEPTIONS**

Midway Auto Auction DEALER APPLICATION

DEALER INFORMATION

Date: _____

Business Name _____ Trade Name _____

Address _____ City _____ State _____ Zip _____

Telephone # _____ Fax # _____ Email Address: _____

Dealer Type: _____ New _____ Used Franchises Held

Business Type: _____ Sole Proprietorship _____ Corporation _____ Subchapter C Corp. _____ Subchapter S Corp.
_____ Limited Liability Company _____ General Partnership _____ Limited Partnership

If Corporation: _____ If Limited Liability Company: _____ If Limited Partnership: _____

State of Incorporation: _____ State of organization _____ State of Registration _____

Federal Taxpayer Identification #(Social Security # or Employer Identification#) _____

State Taxpayer Identification # _____ Date Established _____ Dealer License # _____

License Expiration Date _____ License Plate # _____ Plate Expiration Month _____

Do you Expect to: _____ Buy _____ Sell Will you use: _____ Cash _____ Draft _____ Check _____ DSC _____ AFC _____ MAFS _____ Auto use
(Check all that apply) (Check all that apply) ***Subject to auction management approval

Credit Information for Dealer:

Bank _____ Contact Name _____

Address _____ City _____ State _____ Zip _____

Telephone # _____ Fax # _____

Account # _____ Credit or Floor Plan Limit _____ How Long Doing Business _____

Finance or Floor Plan CO. _____ Contact Name _____

Address _____ City _____ State _____ Zip _____

Telephone # _____ Fax # _____

Account # _____ Credit or Floor Plan Limit _____ How Long Doing Business _____

Reference (Other auctions you attend): _____

Officers: _____

Owners:

Name _____ % Ownership _____ Home Telephone # _____
Cell Phone # _____
Home Address _____ City _____ State _____ Zip _____
Social Security # _____ Date of Birth _____ DL# & State _____

Name _____ % Ownership _____ Home Telephone # _____
Cell Phone # _____
Home Address _____ City _____ State _____ Zip _____
Social Security # _____ Date of Birth _____ DL# & State _____

Authorized Representatives:

Name _____ % Ownership _____ Home Telephone # _____
Cell Phone # _____
Home Address _____ City _____ State _____ Zip _____
Social Security # _____ Date of Birth _____ DL# & State _____

Representative Signature _____

Officer / Owner Signature _____

Authorized To: Buy Cars Sell Cars Sign Checks/Drafts (Check all that apply)

Name _____ % Ownership _____ Home Telephone # _____
Cell Phone # _____
Home Address _____ City _____ State _____ Zip _____
Social Security # _____ Date of Birth _____ DL# & State _____

Representative Signature _____

Officer / Owner Signature _____

Authorized To: Buy Cars Sell Cars Sign Checks/Drafts (Check all that apply)

Name _____ % Ownership _____ Home Telephone # _____
Cell Phone # _____
Home Address _____ City _____ State _____ Zip _____
Social Security # _____ Date of Birth _____ DL# & State _____

Representative Signature _____

Officer / Owner Signature _____

Authorized To: Buy Cars Sell Cars Sign Checks/Drafts (Check all that apply)

Name _____ % Ownership _____ Home Telephone # _____
Cell Phone # _____
Home Address _____ City _____ State _____ Zip _____
Social Security # _____ Date of Birth _____ DL# & State _____

Representative Signature _____

Officer / Owner Signature _____

Authorized To: Buy Cars Sell Cars Sign Checks/Drafts (Check all that apply)

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)

(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.)

By: _____
(Signature of witness)

By: _____
(Signature of Officer, Etc.)

(Printed Name and Title of Officer, Etc.)

(Printed Name and Title of Officer, Etc.)

POWER OF ATTORNEY

The undersigned, and its subsidiaries, if applicable, hereby duly appoint WACO MIDWAY AUTO AUCTION, L.P., d/b/a/ MIDWAY AUTO AUCTION ("Midway"), located at 15735 North IH 35, Elm Mott, Texas 76640, or any of its affiliates, through its authorized employees and agents, to act as our ATTORNEY-IN-FACT to sign all papers and documents that may be necessary pertaining to sale and subsequent title transfer of the vehicles consigned by the undersigned to Midway for its auction of the vehicles pertaining to the purchase of vehicles by the undersigned, including without limitation, any title, title transfer document, reassignment of odometer disclosure statements as required by federal law.

In consideration of Midway's agreement to execute such documents on behalf of the undersigned from time to time, and undersigned shall indemnify, defend, and hold harmless Midway, its affiliates, subsidiaries, officers, directors, employees, successors, and assigns from and against any and all loss, damages, liability, claims, causes of action, and expenses of whatever kind and nature, arising from the execution by Midway or its employees or agents of any certificate of title, odometer statement, bill of sale, or other document necessary to transfer ownership of consigned vehicles. Notwithstanding the foregoing, nothing contained herein shall be construed to require the undersigned to indemnify Midway, its affiliates, subsidiaries, officers, directors, employees, successors, and assigns from any loss resulting from any gross negligence or willful misconduct of Midway or its employees or agents.

This Power of Attorney shall be effective as of the date signing hereof on behalf of the undersigned and continue until full force and effect until full force and effect until terminated by the undersigned in its sole discretion.

This Power of Attorney supersedes any previous authorization to act as agent and attorney-in-fact for the undersigned.

(Dealer Name)

By:

Printed:

Its:

Subscribed and sworn to before me this _____ day of _____, 20_____.

Notary Public, State of _____

Commissions Expiration: _____

County of Residence: _____

BANK AUTHORIZATION LETTER

WACO MIDWAY ATUO AUCTION, L.P., d/b/a MIDWAY AUTO AUCTION

Date: _____

To Whom It May Concern:

I hereby authorize you to release the necessary credit information to WACO MIDWAY AUTO AUCTION, L.P., d/b/a MIDWAY AUTO AUCTION or any of its subsidiaries or affiliates to enable us to do business there with our business checking account.

**If there is a reasonable fee for this inquiry, I authorize bank to deduct this fee from the following account.

ACCOUNT NUMBER: _____

(Dealer Information, Name, Address)

Your prompt attention in answering their attached letter will be greatly appreciated.

Sincerely,

(Signature of Dealer)

(Printed Name of Dealer)

(Bank Name, Address & Phone Number)

BLANKET CERTIFICATE OF RESALE

WACO MIDWAY AUTO AUCTION, L.P., d/b/a MIDWAY AUTO AUCTION
15735 N. IH 35
Elm Mott, TX 76640
Main Phone Number: (254)829-0123
Fax Number: (254)829-1298

This is to certify that all material, merchandise or good (including reconditioning of motor vehicles) purchased by the undersigned from or through WACO MIDWAY AUTO AUCTION, L.P., d/b/a MIDWAY AUTO AUCTION ("Midway") after _____, 20 _____ is purchased for the following purpose (s):

_____ Resale as tangible personal property.

_____ To be incorporated as a material or part of other tangible personal property to be produced for sale by manufacturing, assembling, processing or refining.

_____ To be exported for sale, use or consumption outside the continental limits of the United States.

_____ Other: _____

This certificate shall be considered a part of each order which we shall give. This certificate is to continue in force until revoked. The undersigned is authorized to execute this document for the purchaser named below. Any purchase of reconditioning of a motor vehicle is to recondition that motor vehicle for resale by the purchaser named below who is registered with the _____ (indicate state). Department of Revenue as a dealer and required to collect sales tax on retail sales of motor vehicles.

(Purchaser)

(By)

(Signature)

(Purchaser's applicable State Department of Revenue Certificate Number)

PERSONAL GUARANTY

The undersigned, whether one or more, personally guarantee (s) Dealer's payment and performance of the Auction Terms and Conditions and all transactions by Dealer taken pursuant thereto.

The undersigned acknowledge (s) that WACO MIDWAY AUTO AUCTION, L.P., d/b/a MIDWAY AUTO AUCTION ("Midway") shall have the right to refuse to transact business with Dealer, to modify or release any and all collateral security, to extend or change time of payment and to settle or compromise with Dealer without notice to undersigned and without discharging or affecting and liability of the undersigned hereunder. This personal guaranty is to be a continuing guaranty and the undersigned hereby waive (s) notice of acceptance of this guaranty and presentment, demand, protest and any notice of non-payment or dishonor. The undersigned shall be liable as principal debtor (s) and not merely as surety (or sureties), and the bankruptcy or any assignment in favor of creditors of Dealer shall not affect the enforceability of this personal guaranty.

This personal guaranty shall bind the respective heirs, executors, administrators and assigns of the undersigned, and shall inure to the benefit of Midway, its successors, assigns and subrogees.

Where there is more than one signatory to this personal guaranty, each signatory shall be jointly and severally liable under this personal guaranty.

IN WITNESS WHEREOF, the undersigned has (have) executed this personal guaranty this _____ day of _____, 20_____.

(Printed name of First Owner)

(Witness Printed Name)

(Signature of First Owner)

(Witness Signature)

(Printed Name of Second Owner)

(Witness Printed Name)

(Signature of Second Owner)

(Witness Signature)

(Printed Name of Third Owner)

(Witness Printed Name)

(Signature of Third Owner)

(Witness Signature)

WACO MIDWAY AUTO AUCTION, L.P., d/b/a MIDDWAY AUTO AUCTION (“Midway”)
AUCTION TERMS AND CONDITIONS

In consideration of WACO MIDWAY AUTO AUCTION, L.P., d/b/a MIDDWAY AUTO AUCTION (“Midway”) 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 Midway’s auction facilities (the Auction”), Dealer, as purchaser or seller, as applicable, agrees to the following terms and conditions (“Auction Terms and Conditions”):

1. **Midway as Consignee.** All vehicles delivered to the Auction by Dealer for sale at the Auction (“Consigned Vehicle”) are delivered on consignment by Dealer for Midway to sell to other dealer patrons on behalf of Dealer. Midway is a service company and does not purchase or sell Consigned Vehicles. Rather, Midway facilitates transfers of ownership between Dealer and other dealer patrons of the Auction. Midway reserves the right to refuse to do business with any Dealer in Midway’s sole discretion.
2. **Dealer Eligibility and Applicable Rules.** By participating as a 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 Midway; and (c) subject to the Terms and Conditions contained herein and other applicable auction rules, including but not limited to any posted auction rules, as a condition of doing business at the Auction. Dealer’s application for registration with Midway shall constitute authorization to Midway to investigate Dealer’s (including its principals) credit history. Dealer agrees to execute any documents required by any bank or financial institution to release financial information to Midway.
3. **Midway Card.** Upon approval by Midway of the Dealer Application submitted to Midway, Midway will open an account for the Dealer (“Account”) and Dealer shall be issued a identification card (“Midway Card”) authorizing Dealer to purchase and sell Consigned Vehicles at the Auction. Dealer’s Application and subsequent use of the Midway Card at any Midway Dealer Kiosk or customer service counter represents Dealer’s agreement to the Auction Terms and Conditions and agreement to pay any amounts due Midway as a result of such use of the Midway 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’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 subsequent offer or counter offer 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 Midway for services rendered in connection with the purchase and sale of Consigned Vehicles, including, with out limitation, seller fees, purchaser fees, entry fees, storage fees, NSF check or draft fees, cleaning fees and other customary fees and charge, each as applicable. Dealer further agrees to reimburse Midway for all fees and charges paid by Midway in connection with the transfer of title of Consigned Vehicles.
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 Midway with the Dealer responsible for the appropriate fees.
7. **Payment Terms.** All Consigned Vehicles purchased by Dealer must be paid for, and all Midway transaction fees and charges paid, on day of sale. Midway may set off from amounts it owes Dealer, whether based on proceeds of sales or otherwise, any amounts Dealer owes Midway. Further, Midway may retain possession of any vehicles owned or controlled by Dealer and/or withhold title documents until NSF checks, drafts, related service charges or any other amounts owed by Dealer to Midway have been paid. With each and every payment to Midway 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 to prevent collection action. Upon return of any NSF check or draft, a service charge will be imposed and must be paid thereafter; Midway 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 any legal cost including, without limitation, attorney fees and court costs, necessary for Midway to correct any moneys owed to Midway by Dealer.
8. **Security interest.** In order to secure final payment of any indebtedness owing to Midway arising out of the sale of a Consigned Vehicle purchased by Dealer at the Auction Dealer hereby grants to Midway 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 authorized Midway to prepare and file a financing statement for such Consigned Vehicle without Dealer’s signature being required thereon. If requested, Dealer agrees to sign any such financing statement in person at the Auction. Midway’s security interest in any vehicles is assignable to any auction, subsidiary other affiliate of Midway.
9. **Warranties Regarding Title.** Dealer covenants, guarantees and warrants that with respect to each Consigned Vehicle consigned by Dealer for sale through warrants that will respect to each Consigned Vehicle consigned by Dealer for sale through Midway: (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. Midway 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 Midway.** Midway is neither responsible for the accuracy of odometer mileage on the Consigned Vehicle nor the information contained in the odometer mileage statement. Midway does not make or guarantee and 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. Midway, 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.

13. **Delivery of Vehicle.** Delivery of a Consigned Vehicle purchased by Dealer at the Auction to the possession of Dealer before: (a) final payment is received by Midway; or (b) a valid certificate of title for the Consigned Vehicle has been delivered to Dealer, is solely for the convenience of Dealer, and no title or ownership interest is conveyed or is intended to be conveyed to Dealer until both of these conditions have been met dealer is liable for all expenditures or any mileage on, or damage to m a Consigned Vehicle occurring after the Consigned Vehicle is purchased by an delivered into Dealer's possession but before title is conveyed to Dealer. Neither Midway 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. Midway shall not be liable for titles mailed and not received by the Dealer.

14. **Risk of Loss** Midway 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 Midway's possession as Dealer in its sole discretion shall determine, it being understood that Midway assumes no liability for loss or damage incurred while vehicles are in the possession of Midway.

15. **Indemnity** Dealer shall indemnify, defend and hold harmless Midway, its parent company, affiliates, directors, officers, agents, and employees, from and against and liability, loss, damage, cost, expense, claim, suit or demand, including, without limitation, attorney's 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 Midway, 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. **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 of use tax as may then accrue and be due and payable.

17. **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 and investigation of Dealer's credit history and any other history deemed necessary by Midway, including, without limitation. Dealer's lending institution accounts listed in the Dealer Application. Dealer Shall notify Midway 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.

18. **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 Midway. New or additional representatives of Dealer must be authorized by Dealer in writing delivered in advance to Midway, 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.

19. **Changes to Auction Terms and Conditions.** These Auction Terms and Conditions are subject to change upon written notice to Dealer. Use of the Midway Card or completion of other business transactions through Midway 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.

20. **Waiver of Jury Trial.** Dealer knowingly and voluntarily waive a trial by jury of any or all issues arising in any action or proceeding between the parties hereto or their successors, under or connected with Midway's services, these Auction Terms and Conditions, or any of its provisions.

21. **Miscellaneous** No waiver of the provisions hereof shall be effective unless in writing and signed by Midway. 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 Midway and its successors, assigns and subrogees. These Auction Terms and Conditions and any and all agreements or authorizations executed by Dealer and inure to the benefit of Midway and its successors, assigns and subrogees. These Auction Terms and Conditions and any and all agreements or authorizations executed by Dealer or Midway in connection herewith shall be governed by the interpreted in accordance with the substantive laws of the State of Texas 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 Texas and to venue in the County Courts at Law and District Courts of McLennan County, Texas and the federal courts of the United States, Sitting in the Western District of Texas for the adjudication of any matters arising under or in connection with these Auction Terms and Conditions. Any action initiated by Dealer against Midway relating to these Auction Terms and Conditions shall be filed and conducted in said Courts. Midway may bring any suit against Dealer under or related to these Auction Terms and Conditions in any Court of Competent jurisdiction.

The undersigned dealer ("Dealer") authorizes WACO MIDWAY AUTO AUCTION, L.P., d/b/a MIDWAY AUTO AUCTION ("Midway"), and its authorized representatives, to obtain credit information from a credit bureau, and any financial institution or trade creditor as well as any other credit investigation that Midway in Midway's sole discretion deems necessary.

Dealer acknowledges receipt of Midway Auto Auction's Terms and Conditions, which set forth the terms and conditions under which Dealer may conduct business at Midway auctions, and, by executing and submitting to Midway this Dealer Application, and by subsequent use of Midway's Card issued to Dealer upon approval of this Dealer Application, Dealer agrees to use of Midway's Card issued to Dealer upon approval of this Dealer Application, Dealer agrees to the Auction Terms and Conditions, which may be changed from time to time in Midway's sole discretion. Dealer shall not conduct business within any Midway auction unless Dealer has reviewed and fully executed the Terms and Conditions, and has provided Midway with a fully-executed copy of the Auction Terms and Conditions. Dealer further agrees to abide by any additional Rules posted at the Auction.

Dealer gives express permission to receive fax transmissions to the fax numbers listed above, telephone calls to the telephone numbers listed above, e-mails to the email addresses listed above, mailings to the addresses listed above, and any and all other forms of communications from Midway. This permission will remain in effect until canceled in writing.

IN WITNESS WHEREOF, Dealer, or Dealer's duly authorized representatives, has (have) executed this Dealer Application this _____ Day of _____, _____.

(If a Sole proprietorship)

(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, Etc.)

(Signature of Officer, Etc.)

(Printed Name and Title of Officer, Etc.)

(Printed name and Title of Officer, Etc.)

RELEASE AND WAIVER OF LIABILITY AND INDEMNITY AGREEMENT

This Release and Waiver of Liability and Indemnity Agreement, ("Agreement"), is entered in this _____, day of _____, _____, by and between WACO MIDWAY AUTO AUCTION, L.P., d/b/a MIDWAY AUTO AUCTION ("Midway"), and _____ ("Dealer") in Elm Mott, McLennan County, Texas.

WHEREAS, MIDWAY, now owns and operates an auto auction known as "Midway Auto Auction" with its principal place of business at 15735 North IH 35, Elm Mott, Texas 76640, and;

WHEREAS Dealer wishes as part of its pre-auction inspection to test drive certain vehicles at Auction prior to bidding on them at the auction.

NOW THEREFORE, in consideration of Dealer being permitted by MIDWAY to test drive vehicles up for auction prior to bidding on the vehicles at the auction, Dealer agrees as follows:

1. **Test Drive.** Dealer shall not test drive vehicles without permission, and only in area and under the terms and conditions specified by Midway, including obeying posted speed limits and all other traffic laws, and driving with seatbelts fastened.
2. **Release.** Dealer hereby releases, waives, discharges, covenants not to sue, Midway, its officers, agents, or employees and the consignor of the test driven vehicle, from all liability for any loss or damage and any claim or demands therefore on account of injury to the person or property or resulting in death of the Dealer, while the Dealer is in, upon, about or outside the premises of the auction test driving vehicles.
3. **Indemnity.** Dealer hereby agrees to indemnify and hold harmless Midway, its officers, agents partners and employees, and the consignor of the test driven vehicle, and each of them from any loss, liability, damage, or cost they may incur due to the Dealer's test driving of vehicles in, upon, about or outside the premises of the auction.
4. **Assumption of Risk** Dealer acknowledges that no representations express or implied are given regarding the condition of any vehicle to be test driven. Dealer hereby assumes full responsibility for and risk of bodily injury, death or property damage due to the negligence of others or otherwise while test driving vehicles in, upon about or outside the premises of auction.
5. **Security Interest.** Dealer hereby grants Midway a security interest in a and right to set – off against any sums or vehicles held by Midway for Dealer's account, to secure payment for any damages caused by Dealer's test driving.
6. **Miscellaneous.** Dealer further expressly agrees that the foregoing Agreements is intended to be as broad and inclusive as permitted by the laws of the State of Texas, and that if any portion thereof is held invalid, it is agreed that the balance shall, notwithstanding, continue in full legal force and effect.
7. **Attorney Fees.** The prevailing party in any dispute over this Agreement shall be awarded court cost and attorney fees.
8. **Governing Law.** The laws and Courts of the State of Texas shall govern all questions or disputes relating to interpretations, performance, validity, enforcement, or effect of this Agreement.

WHEREFORE, the undersigned Dealer has read and voluntarily signs the Release and Waiver of Liability and Indemnity Agreement, and further agrees that no oral representations, statements, or inducement apart from the foregoing written agreement have been made, and that this agreement may only be modified in writing and signed by both part

DEALER

AUCTION

Dealer

Auction

By: _____

By: _____

Printed: _____

Printed: _____

Its: _____ (Title)

Its: _____ (Title)

WACO MIDWAY AUTO AUCTION, L.P., d/b/a MIDWAY AUTO AUCTION (“MIDWAY”)

AUTHORIZATION

The undersigned Dealer (“Dealer”) does hereby authorize MIDWAY to maintain and provide to MIDWAY the information regarding the Dealer and its representatives contained on the following:

1. Dealer Application,
2. Bank Authorization Letter including credit information, such as bank information and credit reports;
3. Blanket Certificate of Resale (if applicable);
4. Policies and Procedures;
5. Auction Terms and Conditions;
6. Power of Attorney; and
7. Any and all other information or updates of the foregoing (the “Dealer Documents”)

Dealer understands that this information shall be provided to any and all affiliates of WACO MIDWAY AUTO AUCTION, L.P., d/b/a MIDWAY AUTO AUCTION without verifying the same, on an “as is” basis.

Dealer gives express permission to receive fax transmissions to fax numbers listed on the Dealer Application, telephone calls to the telephone numbers listed on the Dealer Applications, e-mails to the e-mail addresses listed on the Dealer Applications, mailings to the addresses listed on the Dealer Application, and any and all other forms of communications from Midway. This permission will remain in effect until canceled in writing. Dealer shall promptly notify Midway in writing of any change of the information listed above.

IN WITNESS WHEREOF, Dealer has executed this Authorization on this _____ Day of _____, _____.

Legal Name of Dealer (Corp/LLC/LLP/Partnership)

Trade Name of Dealer

Signature of Authorized Agent (owner/officer)

Printed Name of Authorized Agent

Title of Authorized agent

General Policies

1. The Auction is not open to the public, and Dealer is strictly prohibited from bringing retail customers onto the Auction premises. Violation of this provision will result in immediate and permanent suspension of the Dealer's privilege of conducting business with MIDWAY.
2. If the seller designates a sale as an "if" after bidding is finished with the consent and agreement of the highest bidder, the highest bidder is obligated to purchase such Consigned Vehicle for up to 2 hour (s) after the bidding is finished. All subsequent offers and counteroffers, once submitted, shall not be revoked within such time period.
3. All Consigned Vehicles must have a gate-pass before leaving the Auction premises and are subject to trunk inspection. MIDWAY will charge Dealer storage fees for all Consigned Vehicles purchased by Dealer and left on the Auction premises for more than 14 days.
4. Dealer's failure to comply with any of all of the Auction Terms and Conditions or Auction Policies may result in the suspension or termination of Dealer's Privilege of transacting business with MIDWAY and its affiliates, as determined solely in the discretion of Midway.
5. No one under the age of 18 is permitted on the premises.
6. MIDWAY reserves the right to refuse to do business with any dealer in the sole discretion of MIDWAY management.

Selling Light System

**Green
Light**

Guaranteed by the seller not to have any single mechanical defect (excluding radios) cost more than \$400.00 to repair

**Yellow
Light**

Vehicle is sold with pre-announced declarations which are subject to arbitration.

“AS-IS”

**Red
Light**

The following vehicles must be announced and sold “AS-IS”: Vehicles sold for \$1500.00 or less, vehicles having more than 99,999 miles, salvage vehicles, police cars, cabs, municipal vehicles, motor-cycles, boats, trailers, recreational vehicles, modified and off-road vehicles. Vehicles sold “AS-IS” are sold in their existing condition, with all faults, and without modification. Seller and Auction disclaim all implied warranties, and each are relieved from liability for any defects existing in the vehicle.

IN WITNESS WHEREOF, DEALER, OR DEALER’S duly authorized representatives, has (have) executed this Policies and Procedures this _____ day of _____.

(if a sole proprietorship)

(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.)

BY: _____
(Signature of Witness)

(Signature of Officer, Etc.)

POLICIES AND PROCEDURES

WACO MIDWAY AUTO AUCTION, L.P., d/b/a MIDWAY AUTO AUCTION (“Midway”)

“ARBITRATION”

1. **ANNOUNCEMENTS.** The following must be announced regardless of which light a vehicle is sold under, **excluding “AS-IS”**

- (a) Vehicles having miles of 99,000, odometer discrepancy, frame damage, flood damage, cracked blocks, diesels and diesel conversions, paint and/or body work (current calendar year and newer models);
- (b) salvage vehicles;
- (c) rebuilt vehicles;
- (d) municipal and commercial vehicles;
- (e) recovered thefts;
- (f) vehicles without air-conditioning;
- (g) vehicles with missing, inoperable or deployed airbag;
- (h) non Four-wheel drive sport utility vehicles; and/or
- (i) vehicles not conforming to United States Department Transportation (“DOT”) or Environmental Protection Agency (“EPA”) or similar state agency regulations or standards; and/or
- (j) vehicles sold “AS-IS” are NOT subject to arbitration. No exceptions for structural damage or flood damage and emission control Devices.

All selling announcements shall be made by auctioneers only, all representations by seller must be announced through the auctioneer. It is the seller’s obligation to fairly represent the vehicle and to correct any errors made by the auctioneers as to “announced conditions.” It is the purchaser’s obligation to watch lights and listen to “announced conditions.”

Sale day is day 1 in all arbitrations.

The following items are not arbitratable

- (a) Air Conditioning functionality will not be an arbitratable item.
- (b) Check Engine Lights are not arbitratable. (Arbitration must be mechanically specific.
- (c) Inoperable radios, sunroofs, and power windows are not subject to arbitration.

2. **Complaints.** All complaints and rejections must be handled through the arbitration office within **2** hour (s) after the vehicle crosses the block. Both buyer and seller must await the decision of the arbitration office before leaving the auction premises.

*** With the exception that a vehicle fails PSI which would put it in arbitration status.

3. **“AS-IS”.** Vehicles sold “AS-IS” are not subject to arbitration except for.

- (a) Unannounced salvage title; and
- (b) Odometer discrepancies. (vehicles over ten years old *Exempt* are not subject to arbitration)
- (c) Frame reported with in 7 days (vehicle must be on auction premises on the 7th calendar day) (day 1 starts the day of the sale)

The sale of any vehicle that has been arbitrated becomes an “AS-IS” transaction. Purchase transactions not occurring at the block also shall be “AS-IS” transactions.

4. **Finality of Arbitration.** No future arbitration will be permitted for any reason, with the exception of only the following:

- (a) unannounced frame damage reported within 7 calendar days (not including structural damage resulting from normal use, and scratches, scrapes, jack lift marks and minor tie down marks not resulting from an accident):

- (b) unannounced flood damage reported within 7 calendar days:
- (c) unannounced vehicles with a salvage or rebuilt history reported within 7 calendar day of receipt of title;
- (d) cracked blocks reported within 24 hours after purchase.
- (e) unannounced odometer discrepancy; (if in the odometer rules and guide lines)
- (f) missing or inoperative EPA or DPT equipment must be reported by 12:00 on Friday the week of sale, and/or
- (g) any major deletions or additions to the original or advertised production specifications.

Item (d) is not subject to arbitration for vehicles sold "AS-IS" or having more than 100 miles from purchase miles; (e) and (g) must be reported by purchaser prior to leaving the auction premises.

5. **Return of Vehicle by Buyer.** If after arbitration the vehicle is returned to the seller for failure to announce one of the conditions listed in (a) through (g) above, seller shall pay seller and buyer fees. Buyer must notify MIDWAY of its intent to return any vehicle to the auction 24 hours in advance.

6. **Visible defects** visible defects are not subject to arbitration.

7. **Inoperative Gauges.** Vehicles with inoperative gauges or lights, except for odometers as set forth above, are NOT subject to arbitration.

8. **Payment for Vehicles.** MIDWAY is not obligated to pay for any vehicles for any reason.

9. **Stolen Vehicles** Seller shall settle all stolen vehicles sold through the auction at the purchase price less 2% per month for every month from the date of sale.

10. **Window Information** Mileage and other information printed on the windows of any vehicle is for the convenience of Dealer only. This information is not to be relied upon as complete and/or accurate and is not subject to arbitration.

11. **Late Title.** Seller will be assessed auction fees (no exceptions)

- (a) If title is not received within 21 working days a late title fee will be charged of \$75.00
- (b) If the title is at the auction or in the mail to the buyer or the buyers draft is processed, the sale is "FINAL" and the vehicle may not be returned.
- (c) Auction will assist in obtaining a lost title for a fee. However auction is not responsible for any titles lost in transit from seller or to the buyer.

12. **Post sale inspections.** There is a \$75.00 charge. PSI will be completed within 24 to 48 hours after purchase. Customers will receive a 7 day or 100 mile guarantee on all units less than 100,000 Miles. Any vehicle having over 100,000 miles will not be guaranteed once it has left the premises. Sale day is day 1 on all post sale inspections.

