

LIVE AUCTION
EQUIPMENT & PERSONAL PROPERTY AUCTION
JOHN H. SMITH FARM EQUIPMENT AUCTION
INTERSECTION OF PLED WADE ROAD & OSAGE CROSSLAND ROAD
PURYEAR, TN 38251
THURSDAY, NOVEMBER 14TH, 2019 – 10:00 A.M.

Auction being called for IberiaBank which is executing upon its security interest on this specific equipment as allowed by Agreed Order in the US Bankruptcy Court for Western Dist. TN, Case 19-BK-10939.

PROSPECTIVE BIDDERS & BUYERS OR OTHER PERSONS PARTICIPATING IN THIS AUCTION AGREE THEY HAVE READ THESE TERMS AND CONDITIONS AND AGREE TO BID SUBJECT TO THE TERMS & CONDITIONS.

REGISTRATION: All bidders are required to pre-register for bid numbers at www.alexanderauctions.com. Bidders are required to give full name, address and phone number at time of registration, with photo identification. To be an approved bidder at this auction, you must have a valid Visa or Mastercard credit card on file with Alexander Auctions & Real Estate Sales.

1. The property listed and described on the attached list will be offered under the following terms and conditions of sale, which terms and conditions of sale and descriptions of items listed on the attachment, may be amended, updated or altered at the time and place of the auction from the auction block. These terms and conditions of sale and any announcements from the auction block shall be binding on any bidder, whether present or represented by an agent or an absentee bidder. Buyers are bound by these terms and conditions of sale.
2. **TERMS OF SALE:** All property is sold “as is” and “where is” and neither Marvin Alexander d/b/a Alexander Auctions & Real Estate Sales (“Auctioneer”) nor IberiaBank nor anyone else is making any expressed or implied warranty and/or representation of any kind or nature with respect to any of the property being sold. In no event shall the Auctioneer nor IberiaBank be deemed to have made any representation or warranty of merchantability, fitness for a particular purpose, description, size, genuineness, year of manufacture, attribution, provenance or condition concerning the property and/or any warranty that any item complies with any applicable federal or state laws, all of which warranties, express and implied, are specifically disclaimed. No statement set forth in the attached list and/or made at the auction and/or in any bill of sale and/or in any invoice (or elsewhere), whether oral or written, shall be deemed a warranty, representation, guaranty and/or an assumption of liability by Auctioneer and/or IberiaBank. Neither the Auctioneer nor IberiaBank make any representations and/or warranties as to the accuracy of the descriptions or representations listed on the attached, in any advertisement and/or brochure and/or otherwise as to the condition of any item being sold, all of which are available for inspection, and all bidders are encouraged to personally inspect all items, prior to placing any bid(s).
3. **CONDITIONS OF ITEMS SOLD:** Neither the Auctioneer nor IberiaBank are responsible for the correct description, authenticity, genuineness of or defect in any lot and/or item. Neither the Auctioneer nor Iberiabank makes any warranty in connection therewith. No allowances will be made nor will any sale be set aside on account of any incorrectness, error in cataloguing, and/or any imperfection not noted and/or disclosed. Further, no deduction will be allowed on damaged items, as all items being exposed for public exhibition are sold “as is” and without any recourse whatsoever.

4. **BIDDING:** Pre-Auction bidding is allowed. The highest bid on any item will be entered at the Live Auction. No item will be closed out or sold until it is offered in the Live Auction. Execute your bids at www.alexanderauctions.com. All bids must be raised in increments. Bids cannot be retracted. When you place a bid, the bidder is legally obligated to purchase the item if their bid is the successful high amount. Bidders may place a “max bid” on any item. Meaning your bid will be automatically raised to the next increment when needed, before the Live Auction starts.

5. **BID INCREMENTS:**

Bids up to \$200.00	-	\$5.00 is the bid increment
Between \$201.00 and \$600.00	-	\$10.00
Between \$601.00 and \$1,000.00	-	\$20.00
Between \$1,001.00 and \$5,000.00	-	\$50.00
Between \$5,001.00 and \$10,000.00	-	\$100.00
Between \$10,001.00 and \$20,000.00	-	\$200.00
Bids over \$20,001.00	-	\$500.00

6. **INCREMENTS MAY BE CHANGED:** The Auctioneer reserves the right to change increments.

7. **INTERNET BIDDING:** Neither the Auctioneer nor the companies providing the internet bidding software nor IberiaBank shall be held responsible for a missed bid or the failure of the software to function properly for any reason. **The Auctioneer shall not have any liability if a bid is not properly entered.**

8. **INTERNET OPERATIONS:** In the event technical difficulties related to the server, software or any other online auction related technologies occur, the Auctioneer reserves the right to extend bidding, continue the bidding, close the bidding or increase or decrease the extended time at the end of the auction.

9. All bids are subject to acceptance by the Auctioneer. No bid shall be deemed a valid bid until accepted by the Auctioneer. All bids are accepted at the sole discretion of the Auctioneer.

10. **BUYER’S PREMIUM:** A 10% buyer's premium will be added to the final bid to reach the total selling price of each item.

11. **INTERNET ONLINE BIDDING & ABSENTEE BIDDING:** A 13% buyer’s premium will be added to the final bid to reach the total selling price for all items that are not paid for by cash, cashier’s check, certified funds, wire transfer or personal check.

12. **INTERNET ONLINE BIDDING & ABSENTEE BIDDING:** We accept Visa and Mastercard only on purchases under \$700.00 for an individual lot or a group of lots.

13. For purchases under \$700.00 for an individual lot or a \$700.00 maximum for a group of lots, your credit card will be charged immediately following the auction, by registering and desiring to pay by credit card. Bidders agree there can be no charge back to a credit card. No charge backs are allowed.

14. The Auctioneer has the sole discretion to advance the bidding if directed by IberiaBank (and/or bid on any item for IberiaBank) and may reject any and all bids that, in the Auctioneer’s sole discretion, do not advance and/or are injurious to the Auction, including but not limited to nominal, suspicious and/or suspect advances.

15. **SALES TAX:** Inventory is not subject to Tennessee state tax. No sales tax will be collected.

16. **PAYMENT:** All purchases must be paid for after the bidding ends. Purchases to be paid to the order of “Alexander Auctions & Real Estate Sales” on Thursday, November 14, 2019, after the Auction ends or buyers agree to pay for their purchase no later than the day of the Auction ending or Internet Online Bidders may pay the following day Friday, November 15, 2019, when each receive an Invoice for their purchases.
17. **TYPE OF PAYMENT:** Payments must be made in U.S. currency by cash, cashier’s bank check, certified bank check, or personal check with irrevocable bank letter of guarantee made to “Alexander Auctions & Real Estate Sales, Escrow Account”. Purchasers who wish to pay by personal check must be cleared by the Auctioneer and by IberiaBank before the Live Auction. All prospective bidders are required to pre-register for a bidding number and give evidence of their credit-worthiness.
18. **LETTER OF GUARANTY:** A sample letter of guaranty to the Auctioneer is posted after these terms. **Bank guaranty agreement in regard to bidding for a business entity:** By submitting a bid in the name of a business entity or corporation, the individual submitting the bid enters into a guaranty agreement whereby he or she personally guarantees payment to the Auctioneer and completion of the transaction.
19. **COMPLIANCE WITH THE TERMS OF SALE:** In default of payment of bills in full within the time announced for this Auction, the Auctioneer, in addition to all other remedies allowed by law, may retain all monies received as deposit or otherwise, as liquidated damages. Lots not paid for within the time specified herein may be resold at public or private sale without further notice. Any resulting deficiency together with all expenses and costs of re-sale will be the responsibility of the defaulting purchaser. Each buyer in making a bid does herewith agree to comply with the terms and conditions as herein stated and as otherwise set forth. The failure or default by a successful buyer to fully comply with the terms and conditions herein will be treated as an immediate breach and the deposit as made retained and applied toward any deficit in additional costs or charges as incurred to affect the resale of that property at private or public sale. There shall be no further notice required to the buyer once a default has occurred. The obligation of the buyer shall be for costs as incurred, plus any deficit included arising from the buyer’s default.
20. **VIEWING & INSPECTION:** Equipment and items being sold are available for inspection, and sold "as is" "where is" and without recourse. Items are not warranted as merchantable and/or fit for any particular purpose, and no claim may be made by any buyer relating to the condition or use of any item(s) purchased nor shall any claim exist for proximate or consequential damages arising therefrom.
21. **CONFIRMATION OF PURCHASE:** Title to a purchased item shall pass to the buyer upon the fall of the Auctioneer’s hammer, at the Live Auction onsite. The buyer assumes all responsibility for the item or items after the fall of the hammer and agrees to pay the total purchase price.
22. **ALL SALES FINAL:** Buyer assumes full responsibility for the item upon the fall of the hammer. No items can be returned or turned down. If you purchase an item and do not pay, the Auctioneer and/or IberiaBank may proceed to collect payment in a legal manner, including, without limitation, breach of contract, and may file suit in a court of competent jurisdiction located in Henry County, Tennessee, to which venue every buyer and bidder submits. The Auction and all bids (which are considered contracts) will be governed by Tennessee law. In the event either Auctioneer and/or IberiaBank brings a suit for nonpayment or a bad payment made, either reserves the right to collect all reasonable attorneys’ fees and expenses.
23. **THEFT:** The Auctioneer will not tolerate pilfering or taking of any item or theft of any item. Wrong doing will be prosecuted to the fullest extent of the law.

24. All items are in used condition, being sold “as is” “where is” and without recourse and with no warranty, guaranty as to operating condition, physical condition for a particular purpose or fitness for use. You should make an inspection of these items beforehand and be satisfied with their condition. Vehicles, trailers and miscellaneous items are not warranted as merchantable or fit for any particular purpose or particular use, and no claim may be made by purchaser relating to the condition or use of articles purchased or for proximate or consequential damages arising there from.
25. **REMOVAL OF PROPERTY OR STORAGE:** None of the property may be removed from the premises until the total purchase price has been paid. Any items left and not removed from the premises remain at the sole risk of the buyer. Removal shall be at the expense, liability, and risk of the purchaser. **Purchases can be removed only on presentation of original bill of sale.** Photostats of bills of sale will not be accepted for removal. Upon failure of purchaser to remove goods within time specified as posted or announced, Auctioneer shall have the option of removing and storing the goods at expense and risk of the purchaser or deeming money deposit forfeited in which case Auctioneer may resell without notice at public sale or otherwise dispose of goods at risk and expense of purchaser. Purchaser shall remain liable for loss, expense and damages arising from the purchaser’s default.
26. **REMOVAL:** Removal must be by appointment through Alexander Auctions & Real Estate Sales (731) 587-4244.
27. All items must be removed by Wednesday, November 27, 2019 – 4:00 p.m.
28. No removal until after the Live Auction is completed November 14, 2019. All Equipment, Vehicles and Items must be removed on or before November 27, 2019 – 4:00 p.m.
29. Buyer is responsible for all loading. The Auctioneer will not provide any labor or equipment to load.
30. Buyers are allowed to bring their forklifts and lifts to load; however, buyers are liable for their own personal liability insurance.
31. **DISPUTE BETWEEN BIDDERS:** If any dispute arises between two or more bidders, the Auctioneer may decide the same or may immediately put the lot or item up for sale again, and re-sell to the highest bidder. The decision of the Auctioneer shall be final and absolute.
32. **ADDITION TO OR WITHDRAWAL FROM SALE:** The Auctioneer reserves the right to withdraw from sale any of the items; to sell at this auction items not listed; to group one or more lots into one or more selling lots or to subdivide into two or more selling lots.
33. **AUCTIONEER:** The Auctioneer is acting as an agent and independent contractor and is not responsible for acts of its principal(s).
34. **OWNERSHIP:** Items become the sole responsibility of the purchaser immediately at knockdown. No refunds or adjustments will be allowed for any shortages. If you believe you are entitled to an adjustment to your invoice due to missing or damaged item(s), you, your mover or your rigger must report the problem to our on-site supervisor prior to settlement and the items leaving the property. Once the item has left the property, there will be no adjustments. When you hire a mover/rigger, the mover/rigger is acting as your agent. We will not accept that the mover/rigger did not notify you of a missing or damaged item(s) or that it was discovered that an item(s) was missing or damaged when your purchases were delivered to your facility. All bidders and movers/riggers must be aware of this policy! If for any reason whatsoever a property as bid cannot be delivered within that period of time or deliver provided for at the sale for any reason whatsoever, the buyer expressly waives liability on the part of Alexander Auctions & Real Estate Sales, the Auctioneer and further agrees that any obligation with respect thereto shall be limited to the bid and paid for said property (assets).

35. **BUYER'S RESPONSIBILITIES:** Buyer assumes full responsibility for all items purchased when the Auctioneer declares it sold. The Auctioneer is not responsible for security or the security of the items purchased nor is it responsible for missing or misplaced items.
36. **NON-DELIVERY RESPONSIBILITY:** The Auctioneer shall not, in any event, be liable for non-removal or for any other matter, to any purchaser of any lot.
37. **PERSONAL AND PROPERTY RISK:** Persons attending during exhibition, sale or removal of goods assume all risks of damage of or loss to person and property and specifically release and indemnify the Auctioneer and IberiaBank from liability therefore. Neither the Auctioneer nor IberiaBank shall be liable by reason for any defect in or condition of the premises upon which the sale is held.
38. **RECORDS:** The record of sale kept by the Auctioneer and his bookkeeper will be taken as final in the event of any dispute.
39. **NOMINAL BIDS:** Any bid which is merely a nominal or fractional advance may be rejected by the Auctioneer, if in his judgment it may affect the sale negatively.
40. **THE BUYER:** does hereby assume and does agree to indemnify and hold the Auctioneer and IberiaBank harmless from any future claim which shall pertain to the fitness or use for a particular purpose of that asset as being purchased.
41. **CONDUCT OF AUCTION:** The Auctioneer reserves the right, without giving any reason, to put up items out of numerical sequence and to withdraw any item, items, or lot from the auction.
42. **SAFETY DEVICES:** Articles purchased may not incorporate approved activating mechanisms, operating safety devices or safety guards, as required by OSHA or otherwise. It is purchaser's responsibility that articles purchased be so equipped and safeguarded to meet OSHA and any other requirements before placing such articles into operation.
43. **INDEMNIFICATION:** Each bidder and buyer shall defend and indemnify and hold the Auctioneer and IberiaBank harmless from and against all claims and liabilities relating to the condition of, removal of, or use of the items purchased or failure of user to follow instructions, warnings or recommendations of the manufacturer, or to comply with federal, state, and local laws applicable to such articles, including OSHA requirements, and environmental protection agency requirements, or for proximate or consequential damages, costs or legal expenses arising therefrom.
44. **SOLE AND EXCLUSIVE VENUE & JURISDICTION OF ALL DISPUTES:** Any and all claims, including debt collection and all other disputes of any kind, nature, or character whatsoever arising from this auction sale shall be brought in the appropriate court of Henry County, Tennessee and shall be governed by the laws of the State of Tennessee. Each bidder and buyer individually and by virtue of participating in the auction conducted by the Auctioneer does hereby irrevocably agree to submit themselves and any claims to the jurisdiction and venue of the courts of Henry County, Tennessee and the laws of the State of Tennessee which shall be the sole venue and jurisdiction for the resolution of any claims between them and the Auctioneer and IberiaBank, regardless of the nature or location.
45. The Auctioneer is not responsible for items that are not removed within the time period allowed. Items not removed on time will be deemed abandoned. Each buyer accepts full responsibility for all costs incurred by Auctioneer and/or IberiaBank for removal, storage, and/or disposal of abandoned merchandise.

46. **AUCTION INVENTORY CATALOG:** The Auctioneer has prepared a catalog listing many of the lots. Many of these lots contain various items and various numbers of items. The Auctioneer has attempted to offer an approximate count on some lots, to give an indication of the approximate size of the lot. The count may be more or less. No guarantee is given in the actual count. No sales will be set aside nor will any adjustments be made due to a discrepancy on multiple lot numbers which are sold as a total dollar amount for the lot.
47. **ADDITIONAL TERMS AND CONDITIONS:** The Auctioneer may add, modify, or supplement other terms and conditions of sale, such additional terms and conditions may be printed in the catalogue or announced at the Auction.
48. **ANNOUNCEMENTS UPDATED DURING THE LIVE AUCTION** will take precedence over any previous announcements or statements.
49. All buyers acknowledge and accept by signature these terms and conditions provided at time of registration by registering for a bid number.



CHECK OUT OUR WEBPAGE FOR UPCOMING AUCTIONS:

www.alexanderauctions.com

SAMPLE: BANK LETTER OF CREDIT

MUST BE ON BANK STATIONARY

(BANK NAME)
(ADDRESS)
(PHONE NUMBER)

(DATE)

Marvin Alexander d/b/a
Alexander Auctions & Real Estate Sales
239 University Street
P.O. Box 129
Martin, TN 38237

To Whom This May Concern:

Our Customer, (Name of Account Holder) _____ on (Account Number) _____, will be attending your auction (Auction Name or Date) _____. This bank will guarantee payment on (Account Holder's Name) _____ check for purchases up to \$ _____, when said checks are properly endorsed and presented. This guarantee will expire on (Date) _____.

Please feel free to contact me if additional information is needed at (Phone number of bank and extension number of contact person) _____.

(Signature of Bank Contact Person) _____
(Title of Bank Contact Person) _____