



ADDENDUM

AGENCY: City of Merced	EFFECTIVE DATE: October 11, 2024
AGREEMENT: Government Services Multi-Channel Sales Agreement Executed 10/11/2022	ADDENDUM NO: 1

This **ADDENDUM** ("Addendum") is entered into as of the Effective Date listed above by and between **IRONPLANET, INC.**, a Delaware corporation ("**IronPlanet**") and the customer identified above ("**Agency**") (each a "**Party**" and collectively, the "**Parties**"). The Parties previously entered in the Agreement specified above and have agreed to amend the Agreement as specified herein. Unless otherwise defined, capitalized terms used herein shall have the same meaning ascribed to them in the Agreement. This Addendum and Agreement contain the entire agreement of the Parties with respect to the subject matter hereof and supersede all previous communications, representations, understandings and agreements, either oral or written, between the Parties. Nothing in this Addendum shall be deemed to waive or modify any of the provisions of the Agreement, or any previous addendum thereto except as expressly provided herein, and all other terms and conditions of the Agreement shall remain in full force and effect. In the event of any conflict between the Agreement, this Addendum, or any other addendum thereof, the document later in time shall prevail.

- Section 4.4. Term and Termination, shall be replaced in its entirety with the following:

Term and Termination. The term ("**Term**") of this Agreement shall be a two (2) year period commencing on the Effective Date listed above. Any renewal of the Agreement shall be subject to the mutual written agreement of the parties.

IN WITNESS WHEREOF, the Parties hereto have caused this Addendum to be executed by their duly authorized representatives as of the Effective Date, and each represents and warrants to the other that it has validly entered into this Addendum and has the legal power to do so.

AGENCY

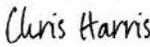
By: _____

Name: _____

Title: _____

Date: _____

IRONPLANET, INC.

DocuSigned by:

 F3BFB382CAE74AE

By: _____

Name: Chris Harris on behalf of Brian Gibbons

Title: Sales Coordinator

Date: 10/12/2024

(Rev. 02/07/19)

APPROVED AS TO FORM:


 City Attorney, City of Merced



GOVERNMENT SERVICES MULTI-CHANNEL SALES AGREEMENT

LEGAL NAME OF AGENCY: City of Merced	DATE: June 25, 2022
ADDRESS: 678 W 18 TH ST, MERCED, CA 95340	REGIONAL MANAGER, GOVERNMENT: Justin Soule

This MULTI-CHANNEL SALES AGREEMENT (this "Agreement") is entered into as of the date first written above (the "Effective Date") by and between the entities set out in Schedule B (collectively, the "Company") and the customer identified above (the "Agency") for the sale of Equipment through the Marketplaces or a Live Auction Event

1. AGENCY INFORMATION	
Authorized Representative	Julio Marquez
Title of Authorized Representative	Purchasing Supervisor
Email	marquezj@cityofmerced.org
Telephone	209.385.6833
2. COMMERCIAL TERMS	
<p>The Agency authorizes Company to offer and sell the equipment listed on one or more lists of equipment provided to Company in the form attached as <u>Schedule A</u> ("Equipment") for sale by Company through one or more of Company's online marketplace events hosted by www.govplanet.com (each a "Marketplace") and/or through an unreserved public auction occurring at an Company site or designated offsite location (the "Live Auction Event"), as indicated by the "Sale Type" selected by the Agency and noted on <u>Schedule A</u>. Company hereby extends the following sales options to Agency for its disposition needs and Agency shall indicate its selection of a transaction type by initialing next to the desired option(s)</p>	
Options	Terms and Fees
Online Onsite <i>(Sold online from Agency's location)</i>	Auction Revenue will be shared <u>85% / 15%</u> with 85% going to the Agency and 15% going to Company. "Auction Revenue" is defined as the gross selling price of a unit plus the buyer's transaction fee.
Physical Offsite <i>(Sold offsite at Company's location)</i>	<p>Commission. For Equipment sold through a Live Auction Event, Company will be entitled to a commission based on the gross sale price and other fees as set forth below.</p> <p>(a) 9.5% for any lot in excess of \$2,500.00; and</p> <p>(b) 19.5% for any lot realizing \$2,500.00 or less, with a minimum fee of \$100.00 per lot.</p> <p>Refurbishment. The Agency elects to have Company arrange for the welding, sandblasting, painting, cleaning, and other refurbishing (the "Refurbishing") of the Equipment to a standard acceptable to Company. <input type="checkbox"/> YES <input checked="" type="checkbox"/> OR <input checked="" type="checkbox"/> NO</p> <p>Should Company organize and pay for the Refurbishing of any part of the Equipment, Company will be reimbursed for these costs plus 10% provided that the total cost will not exceed _____ dollars (\$ _____) without the Agency's consent.</p> <p>Fuel/Batteries Cost. The Agency will reimburse Company for the cost plus 10% of fuel and batteries as Company deems necessary for demonstration and sale of the Equipment</p>
Smog Testing	In compliance with legal mandates from the State of California, all vehicles that Company is required to pick up from Agency's facility and transport to our site for sale, as agreed herein, that are subsequently sold to residents of the State of California and/or which will be operated within the State of California are required to be smog tested prior to completion of the sale and delivering the vehicle to the buyer. To that extent, once the auction has closed and Company can ascertain if the buyer is a California resident or intends to operate the vehicle within the State of California, Company will conduct the smog exam. If the vehicle fails the exam, Company will unwind the auction for that vehicle and notify the Agency accordingly. The Agency will have the option to remove the vehicle from our facility and conduct the required repairs or request that Company list the vehicle in a subsequent auction open only to dealers or dismantlers. The cost of the smog tests will be passed through to the Agency at cost; not to exceed \$220 per test.
3. TERMS AND CONDITIONS	
Terms & Conditions	All sales of Equipment will also be subject to the terms and conditions set out in <u>Schedule B</u> to this Agreement (the "Terms and Conditions").
4. TITLED EQUIPMENT	
The Agency hereby appoints Company as its attorney-in-fact with a limited power of attorney ("LPOA") to execute on the Agency's behalf, all documents necessary and required to transfer title to, and permit registration of ownership of, any portion of the Equipment to the buyer provided, however, if original titles or a notarized LPOA are required by federal, state, provincial or local regulation to transfer title, the Agency will provide Company with either, as applicable, (i) signed original titles, or (ii) a notarized LPOA and unsigned original titles at least two weeks prior to the	

Live Auction Event for Equipment or the time of listing for the Marketplace(s). Failure to provide title(s) and/or an LPOA as required will prevent the Equipment being made available for sale until such documentation is provided.

5. LIENS/ENCUMBRANCES

ARE THERE ANY LIENS ON THE EQUIPMENT? YES **OR** NO

AGENCY'S INTERNAL CONTACT REGARDING LIENS AND TITLES (Name/Phone/Fax/Email) Ornel Pulido Jr. / (209) 385 4764
PulidoO@cityofmerced.org

1. If "Yes", please provide information for each of the lien holders as requested in the applicable Schedule.
2. Unless otherwise disclosed in the applicable Schedule, the undersigned, on behalf of the Agency represents and warrants that all Equipment is or will be free of all liens, charges, security interests, tax or duty obligations or other encumbrances (the "Encumbrances") prior to being placed for sale in a Live Auction Event or on the Marketplace(s).
3. The Agency: (i) authorizes Company to conduct lien searches on the Equipment; (ii) authorizes Company to contact potential lien holders for the disclosure of Encumbrances and to obtain pay-off balances and releases; (iii) consents to the release to Company of any and all information pertaining to any such lien, charge, encumbrance or security interest, and (iv) assigns proceeds from the sale of the Equipment as may be required to discharge and satisfy all charges, liens, claims and encumbrances in respect of the Equipment.

6. MISCELLANEOUS

Entire Agreement; Priority	This Agreement contains the entire agreement of the parties with respect to the subject matter hereof and supersedes all previous communications, representations, understandings and agreements, either oral or written, between the parties. In the event of a conflict between the provisions of this Agreement and the Terms and Conditions, this Agreement will control.
Equipment Details	Set forth on <u>Schedule C</u> are supplemental Equipment details required for inspection and buyer pickup.
Counterparts	This Agreement may be executed in counterparts, each of which will be considered an original, but all of which together will constitute the same instrument. Execution and delivery of this Agreement may be evidenced by facsimile, PDF, electronic signature, or acknowledgement email and will hold the same force and effect as an original signature for purposes of binding the parties.
Term	The term ("Term") of this Agreement will be a two (2) year period commencing on the Effective Date with the option for (2) additional one (1) year extensions, in total four (4) years. The Agency may request the sale of further equipment during the Term by providing Company with written notification, including a description of the equipment, the proposed platform and auction date and location (if applicable). Company will indicate acceptance by providing the Agency with a schedule in the form of <u>Schedule A</u> for both parties to initial.
Notice	Any notice to Company must be in writing and must be sent via email and by registered mail or overnight courier to the applicable contracting entity at the address set out in <u>Schedule B</u> . Notice to the Agency must be in writing and shall be sent to the address provided by the Agency in this Agreement. Notice shall be deemed to have been given upon three (3) business days after posting by registered mail or one (1) day after delivery to an overnight courier. If the Agency changes its address, the Agency is responsible for providing an updated address to Company.
Currency and Payment	All prices noted in this Agreement are listed in the currency of the country in which the Equipment is located at the time such Equipment is offered for sale. The same currency is to be used for invoice and payment.
Company Structure	Ritchie Bros Auctioneers Incorporated is the parent company of IronPlanet, Inc. and Ritchie Bros Auctioneers (America), Inc., the entities performing the services outlined herein. IronPlanet, Inc. operates the online Marketplaces and Ritchie Bros Auctioneers (America), Inc. operates the Live Auction Events. GovPlanet is a d/b/a of IronPlanet, Inc., dedicated to the management and support of government agencies by offering the combined services of the Company as outlined herein.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the Effective Date, and each represents and warrants to the other that it has validly entered into this Agreement and has the legal power to do so.

AGENCY: CITY OF MERCED
By: Stephanie Dietz
Name: Stephanie Dietz
Title: City Manager
Date: 9/12/2022

IRONPLANET INC.
By: Lorelei Rolf
Name: Justin Soule Lorelei Rolf on Behalf of Justin Soule
Title: Territory Manager RASC
Date: 11/10/2022

APPROVED AS TO FORM:

[Signature] 7/21/2022
Date

City Attorney

RITCHIE BROS AUCTIONEERS (AMERICA) INC.
By: Lorelei Rolf
Name: Justin Soule Lorelei Rolf on Behalf of Justin Soule
Title: Territory Manager RASC
Date: 11/10/2022

302112
FUNDS/ACCOUNTS VERIFIED
[Signature] 9/5/22
FINANCE OFFICE DATE
No funds to encumber. 9/6/22
FL 9/11/22

ATTEST:
CITY CLERK

BY: [Signature]
Assistant/Deputy City Clerk 9/13/2022



**SCHEDULE A TO AGREEMENT
SAMPLE EQUIPMENT LISTING REQUEST FORM**

AGENCY: _____	DATE OF SUBMISSION: _____
DATE OF MULTI-CHANNEL SALES AGREEMENT: _____	

Pursuant to the terms and conditions of the Multi-Channel Sales Agreement referenced above by and between Company and Agency, Agency hereby authorizes Company to place the following Equipment for sale through the Marketplace or Live Auction Event, as applicable.

No.	Seller Ref #	Location	Year	Make	Model	Serial #	Hours / Miles	Sale Type	Insp. Reqs.	Liens (Y/N)	Titled Equip (Y/N)	Features/Equipment Detail; Attachment Detail	Listing Fee
1.													
2.													
3.													
4.													
5.													
6.													
7.													
8.													
9.													
10.													

[Agency] [Company]

LEGEND:	WO = Weekly On-Line; GPD = GovPlanet Direct BN = Buy Now; R = Reserve MO = Make Offer; LAE = Live Auction Event
Sale Type:	Inspection Reqs:
	FI = Full Inspection B = Photos and Basic Functionality PO = Photos Only (non-powered units)

**SCHEDULE B TO AGREEMENT
TERMS AND CONDITIONS**

The following terms and conditions (the "Terms and Conditions") apply to the sales of Equipment by Company under the Agreement. The Terms and Conditions are separated into three sections: A) Terms and Conditions applicable to both Online Marketplaces and Live Auction Events, B) Terms and Conditions applicable to Online Marketplaces only, and C) Terms and Conditions applicable to Live Auction Events only

A) Terms and Conditions applicable to both Online Marketplaces and Live Auction Events

1. **Contracting Parties.** The contracting parties for Company are defined based upon the sales channel of Equipment as set forth in the following table:

Company Contracting Entity	Notice Address
<u>Live Auction Event</u> Ritchie Bros. Auctioneers (America) Inc	4000 Pine Lake Road Lincoln, NE USA 68516 Attn: Legal Counsel
<u>Online Marketplaces</u> IronPlanet, Inc.	legal@ritchiebros.com

2. **Representations.** You represent and warrant that: (i) no Equipment shall be fraudulent, stolen or counterfeit; (ii) You are duly authorized to enter into the Agreement and sell such Equipment (iii) You are solvent and have not made any assignment, proposal or other proceeding for the benefit of its creditors; and (vi) You own all right, title and interest in and to the Equipment and the Equipment is free and clear of all liens or other encumbrances, except as otherwise disclosed by you to Company in writing.
3. **Risk of Loss.** You agree to have the equipment available for transportation, complete with ignition key, to the Buyer no later than one (1) business day after the conclusion of the sale. Agency shall be responsible for loss or damage to the Equipment, other than loss or damage arising as a result of negligence of Company, its agents and employees, until the earlier of: (i) the removal of the Equipment from the posted Equipment location by Buyer or Buyer's designated transportation provider or (ii) receipt by Agency of all proceeds from the sale of Equipment. Thereafter, the Equipment shall be and remain at the risk of Buyer or Buyer's designated transportation provider (and not Company). Company has no obligation to maintain insurance coverage pertaining to the Equipment in the possession of Company for purposes hereunder.
4. **Limitation of Liability.** TO THE FULLEST EXTENT PERMITTED BY LAW, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY SPECIAL, INDIRECT, PUNITIVE, COVER, INCIDENTAL OR CONSEQUENTIAL DAMAGES, HOWEVER CAUSED, WHETHER IN CONTRACT OR TORT OR UNDER ANY OTHER THEORY OF LIABILITY, INCLUDING LOSS OF REVENUE, PROFITS, OR BUSINESS, ANY LOSS OF GOODWILL OR REPUTATION, OR THE COSTS OF SUBSTITUTE GOODS OR SERVICES, EVEN IF SUCH PARTY OR AN AUTHORIZED REPRESENTATIVE THEREOF HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
5. **Indemnification.** Company shall indemnify and hold the Agency, its parents, subsidiaries and affiliates, and each of their directors, officers and employees, harmless from all losses, claims, damages, and expenses, including reasonable attorneys' fees (hereafter, "Liabilities"), arising out of or resulting from this Agreement to the extent caused in whole or in part by Company's gross negligence or intentional misconduct. To the extent allowed by law, Agency agrees to indemnify and hold Company, its parents, subsidiaries and affiliates, and each of their directors, officers and employees harmless from and against any and all losses, claims, damages and expenses arising out of or resulting from this Agreement and caused in whole or in part by the gross negligence or willful misconduct of the Agency.
6. **Termination.** Each party shall have the right, in its sole discretion, to terminate this Agreement with respect to new business upon thirty (30) days prior written notice to the other party, provided, however, that each party shall continue to perform their respective obligations in respect of equipment previously consigned pursuant to the Agreement and shall perform all work necessary for the orderly close-out of the services; after which time the Agreement will be terminated in its entirety. Company shall have the right, in its sole discretion, to terminate the Agreement or rescind the sale of Equipment to a Buyer in whole or in part in the event (a) there are liens, encumbrances or adverse claim on or to any Equipment in addition to those that are listed in the Agreement; (b) your net proceeds are insufficient to discharge creditor claims and pay Company's fees after title is cleared; (c) you are in breach of the Agreement; (d) you have provided inaccurate, fraudulent, outdated or incomplete information during the registration or Listing process or thereafter; (e) you have violated applicable laws, regulations or third party rights; (f) Company believes in good faith that such action is reasonably necessary to protect the safety or property of other customers, Company personnel or third parties; or (g) for fraud prevention, risk assessment, security or investigation purposes. All provisions in this Agreement regarding representations and warranties, indemnification, disclaimers, limitation of liability, and payment obligations for fees incurred prior to the termination date shall survive any termination of the Agreement.
7. **General Provisions.** The Agreement contains the entire agreement of the parties with respect to the sale of Equipment by Company and supersedes all previous communications, representations, understandings and agreements, either oral or written, between the parties. This Agreement supersedes and replaces the terms in any Agency purchase order or other ordering document. You and Company are independent contractors. If any provision of the Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, then such provision shall be enforced to the maximum extent permissible so as to effect the intent of this Agreement, and the remainder of the Agreement shall continue in full force and effect. The failure by either party to exercise or enforce any rights or provisions of the Agreement shall not constitute a waiver of such right or provision. Any delay in the performance of any duties or obligations of either party will not be considered a breach of the Agreement if such delay is caused by a labor dispute, market shortage of materials, fire, earthquake, flood or any other event beyond the control of such party, provided that such party uses reasonable efforts, under the circumstances, to resume performance as soon as reasonably practicable. In

the event of an assignment, this Agreement shall bind and inure to the benefit of the parties, their respective successors and permitted assigns. The Agreement shall be governed by the laws of the State of Washington. The United Nations Convention on Contracts for the International Sale of Goods and, if you are located in the United States, the Uniform Computer Information Transactions Act, do not apply. Any action against Company arising from or relating to this Agreement or any sale or consignment hereunder shall be commenced in a state or federal court in King County, Washington and you irrevocably consent to the exclusive jurisdiction of such courts. Information provided in this Agreement shall be retained by Company in accordance with its formal Privacy Statement, available at www.rbaction.com or www.ironplanet.com.

B) Terms and Conditions applicable to Online Marketplaces only

1. **Services of Company.** Company offers you the use of the Marketplace, which functions as a platform on which you can list and advertise Equipment for sale to potential buyers ("Buyers"). Each party is acting on its own behalf, and Company is not a party to the subsequent binding obligation to sell/buy the Equipment that is entered into between you and the Buyer. Nor does Company represent either party in the conclusion of such binding obligation. In consideration of your use of the Marketplace for the listing and advertising of Equipment for sale, fees as listed in the Agreement are payable by you. There are five listing formats available on the Marketplace:

- **Online Auctions.** A service where you are able to list and advertise Equipment for sale to the highest bidder who meets or exceeds the opening bid.
- **Buy Now.** A service where you are able to list and advertise Equipment at a Buy Now Price.
- **Make Offer.** A service where you are able to list and advertise Equipment for sale to a bidder at the Asking Price or a Negotiated Price.
- **GovPlanet Direct.** A service where you are able to self-list, advertise and manage the sale of business and surplus assets.
- **Reserve.** A service where you are able to list and advertise Equipment for sale to the highest bidder in a reserved marketplace, where you set the Reserve Price.

The Marketplace shall be the exclusive listing site for the Equipment, and you shall not offer for sale or sell the Equipment in any other manner from the Effective Date until the earlier of (i) the date such Equipment is sold via the Marketplace or (ii) the date you withdraw the equipment from the Marketplace in the event Equipment has not been sold, but in such event no less than ninety (90) days. You hereby extend an irrevocable offer to sell the Equipment, as applicable, (a) to a Buyer who is the highest bidder and who meets or exceeds the opening bid, the Reserve Price, or Asking Price, as applicable, (b) to a Buyer who commits to purchase Equipment at the Buy Now Price; or (c) to a Buyer who commits to purchase Equipment at the Negotiated Price. After the winning bid for a piece of Equipment has been established by Company or the Buyer has (a) committed to purchase the Equipment at the Buy Now Price or the Asking Price or (b) met or exceeded the Reserve Price at the end of the Reserve Period, the bid or purchase commitment of Buyer will be automatically accepted by you and a binding obligation to purchase and sell between you and Buyer is automatically concluded ("Binding Obligation"). All applicable terms and conditions of this Agreement shall apply to the Binding Obligation. Further, for Make Offer listings, you may accept or counter an offer below the Asking Price. In the event that you accept an offer, or the Buyer accepts your Counter Offer (the "Negotiated Price"), the Binding Obligation is concluded, and all terms herein shall apply. Buyer and Agency will be notified of such Binding Obligation by an email or other notification that is generated automatically by the Marketplace. Subject to your receipt of payment for the Equipment, you, at your own expense, shall deliver a bill of sale and such other documentation as may be reasonably necessary to transfer title to the Equipment to Buyer. The timing of the sale of Equipment and opening bid shall be set by Company. Company shall use its best efforts to sell the Equipment on your behalf in a commercially reasonable manner. There is no guarantee as to the gross proceeds that may be realized from the sale of Equipment through the Marketplace. You may not manipulate the bidding in any way, including bidding on your own Equipment to artificially raise the final sales price.

2. **Inspections.** For all requested inspections, you agree to permit Company and/or its authorized representatives to test and inspect each piece of Equipment at a time and place specified in the Agreement or as otherwise mutually agreed. Company shall produce an inspection report ("Inspection Report") for each piece of Equipment. The Inspection Report is the sole and exclusive property of Company. Company inspections are solely for the purpose of reporting on the visible condition of the Equipment's major systems and attachments. Company inspections are NOT intended to detect latent or hidden defects or conditions that could only be found in connection with the physical dismantling of the Equipment or the use of diagnostic equipment or techniques. Your failure to properly maintain the Equipment from the date of inspection until its removal from your location by buyer will void the inspection. If you alter or perform repairs or other maintenance to the Equipment after the inspection, another inspection will be required, and you will be subject to a Re-inspection Fee. The Agency agrees that the Equipment will remain in the same or better condition as previously inspected by Company.
3. **Equipment Availability.** You agree to have the equipment available for transportation, complete with ignition key, to the Buyer no later than one (1) business day after the conclusion of the sale.
4. **Fees; Payment of Proceeds; Taxes.** All Fees and Payment Instructions are set forth in the Agreement. You shall be responsible for the payment of any tax or duty that is your responsibility as a seller of the Equipment. You acknowledge and undertake to make yourself aware of and comply with all laws that may be applicable to your access and use of the Marketplace, and your entering into a transaction on the Marketplace. Company disclaims any and all liability in respect of your use of the Marketplace and your sale of any Equipment resulting in any taxes (whether direct, indirect, local or federal), fines or penalties being levied on you. For the avoidance of doubt, it is your responsibility to satisfy yourself of any charges, taxes (whether direct, indirect, local or federal) or related obligations becoming applicable in respect of the transactions that you enter into on the Marketplace. You shall indemnify Company and its affiliates (and the officers, directors, agents and employees thereof) against any tax cost or expense arising from your failure to satisfy any laws or regulations in relation to a transaction. Once a Binding Obligation is created between you and Buyer, Company will generate a third-party invoice that is issued to Buyer on your behalf. Buyer is responsible for paying you the purchase price for the Equipment upon creation of a Binding Obligation, and you hereby instruct Company to facilitate receipt of the purchase price. Further, you hereby grant Company the right, in its own name, to enforce your right to payment. You agree that

no monies shall be payable to you until paid by the Buyer. Once received by Company, any monies due to you, net of any commissions and fees due Company as detailed in this Agreement, shall be disbursed within fifteen (15) business days after creation of a Binding Obligation. You hereby consent to Company's right to offset any other commissions and fees specified in this Agreement or that result from additional services requested by you, with any remainder to be paid within fifteen (15) business days following receipt of an invoice. You acknowledge that Buyers may fail to perform or pay on a timely basis and that Company shall not have any liability to you for any act or omission of Buyers.

5. **Representations.** You represent and warrant that: (i) no Equipment shall be fraudulent, stolen or counterfeit; (ii) You are duly authorized to enter into the Agreement and sell such Equipment; (iii) You are solvent and have not made any assignment, proposal or other proceeding for the benefit of its creditors; and (iv) You own all right, title and interest in and to the Equipment and the Equipment is free and clear of all liens or other encumbrances, except as otherwise disclosed by you to Company in writing.
6. **Disclaimer.** TO THE FULLEST EXTENT PERMITTED BY LAW, THE MARKETPLACE PROVIDED BY OR THROUGH COMPANY IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES OF NON-INFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE
7. **Storage at Company Yard for a Marketplace transaction.** This Section 7 shall only apply to Equipment listed on a Marketplace and stored at an Company site (each, a "Facility"). The Agency and Company agree that the storage of Equipment does not represent a consignment agreement or other arrangement under which Ritchie Bros. Auctioneers (America), Inc. agrees to offer the Equipment for sale on behalf of the Agency. If Equipment is stored at the Facility while listed on a Marketplace, the Agency shall be deemed to be contracting with Ritchie Bros. Auctioneers (America), Inc for the storage component and with IronPlanet, Inc. for the Marketplace listing. Ritchie Bros. Auctioneers (America), Inc agrees to provide storage provided that the Equipment is free of all contents and substances other than normal operating fluids and lubricants, therefore, Ritchie Bros. Auctioneers (America), Inc reserves the right to refuse storage of any item of Equipment containing any hazardous substances or visibly leaking contaminants.
8. **GovPlanet Direct.** All Listings on GovPlanet Direct shall be subject to the additional terms set forth in this Section 8
 - 8.1. **Listing Requirements.** Agency shall include all relevant information in the Listing necessary to sell and convey the items, including (a) an accurate description and photographs to depict the condition of the item, including any attachments or included parts; and (b) the location and availability of the item for pick-up. Each Listing will be assigned a unique item number. Agency shall not post multiple Listings for the same item.
 - 8.2. **Opening Bid and Scheduling.** For Listings on GovPlanet Direct, Agency will set (i) the opening bid for Listings; (ii) any applicable reserve amount, Make Offer, or Buy Now price; (iii) the bid increment; and (iv) the duration of the Listing.
 - 8.3. **Inspections.** Agency agrees to permit bidders to inspect items prior to or during bidding, when feasible, at a time and place specified by Agency in the Listing or as otherwise mutually agreed between Agency and bidder.
 - 8.4. **Payment of Proceeds.** After a Binding Obligation is concluded between Agency and Buyer, the GovPlanet Direct Marketplace will generate a third-party invoice that is issued to Buyer on Agency's behalf. Buyer is responsible for paying the purchase price for the items upon conclusion of a Binding Obligation, and Agency hereby authorizes GovPlanet to act as a payment processor and facilitate receipt of the purchase price. Further, Agency hereby grants GovPlanet the right, in its own name, to enforce Agency's right to payment. Agency agrees that no monies shall be payable to Agency until paid by the Buyer. Once received by GovPlanet, any monies due to Agency, net of any commissions and fees due GovPlanet as detailed in this Agreement, shall be disbursed within fifteen (15) business days after conclusion of the Binding Obligation. Agency hereby consents to GovPlanet's right to offset any other commissions and fees specified in this Agreement or that result from additional services requested by Agency, with any remainder to be paid within thirty (30) days following receipt of an invoice.

Agency may elect to act as the payment processor and facilitate receipt of the purchase price for Listings on GovPlanet Direct, to include all applicable commission and fees, pursuant to the Agreement. If the Agency elects to collect payments, GovPlanet will invoice Agency for its commission and fees no less than monthly. Agency shall remit payment to GovPlanet within thirty (30) days following receipt of an invoice. Agency acknowledges that Buyers may fail to perform or pay on a timely basis and that GovPlanet shall not have any liability to Agency for any act or omission of Buyers.

- 8.5. **Prohibited Items.** Agency is prohibited from selling the following items:

- Alcoholic beverages, cigars, cigarettes or tobacco products;
- Animals or livestock;
- Controlled substances or chemicals;
- Coupons;
- Credit, debit, or gift cards;
- Event tickets;
- Lottery tickets;
- Mailing lists and consumer information;
- Pornography or other obscene media;
- Prescription drugs;
- Products subject to recall;
- Real estate or property;
- Services;
- Stocks and other securities;
- Used or opened cosmetics; and

- Firearms and ammunition

C) Terms and Conditions applicable to Live Auction Events only

1. Company Obligations and Responsibilities

- 1.1. Sale Sites and Dates.** Company shall, as your agent, offer the Equipment for sale at unreserved auction at various locations and on various dates for the period commencing as of the date hereof and ending upon the termination of the Agreement. You shall provide to Company a completed Schedule A no later than fifteen (15) days prior to the scheduled auction date. If advertising of specific pieces is requested in the auction brochure, you must provide a completed Schedule A to Company at least thirty (30) days before the scheduled auction date.
- 1.2. Payment.** Company shall make payment to you within twenty-one (21) days after the Live Auction Event, by check unless you specify otherwise in writing, the amount due and owing to you from monies collected from the sale of the Equipment after making all deductions permitted under this Agreement.
- 1.3. Administrative Fee.** You acknowledge that Company may charge purchasers an administrative fee based on the selling price of each lot.
- 1.4. Other.** Company shall
 - allow you access to records concerning the sale of the Equipment at the Live Auction Event, excluding the names or contact information of the buyers thereof; and
 - collect and remit state and local sales tax arising upon the sale of the Equipment at the Live Auction Event.
- 1.5. Lots.** Company may divide the Equipment into such lots as it may in its absolute discretion deem desirable for a Live Auction Event. Company shall not be liable for any loss or damages claimed in respect of the manner in which the Equipment is divided into lots nor in respect of any failure by Company to divide the Equipment into lots.

2. AGENCY'S OBLIGATIONS AND RESPONSIBILITIES

- 2.1. Title Documents.** Should Company be required to purchase titles on your behalf, RB shall be entitled to interest on amounts advanced at a rate of US Bank prime plus 2%.
- 2.2. Delivery.** You shall deliver the Equipment, at your cost, to the auction site no later than fifteen (15) days prior to the scheduled Auction:
 - in good operating condition, free of material defects except as disclosed to Company, with adequate fuel and batteries and starting at the key;
 - free of hazardous materials other than normal operating fuels, oils and lubricants; and
 - in compliance with all applicable environmental, health and safety rules and regulations;together with all documents evidencing your title and/or necessary to transfer title to the Equipment, properly endorsed.

The Agency may elect for Company to arrange for delivery of the Equipment to the Site by indicating the same in Schedule A. If delivery by Company is elected, the Agency will be charged a delivery fee equal to the actual cost of delivery plus 10%.
- 2.3. Unreserved Auction Sale.** You acknowledge Auctions are unreserved and Company shall have no obligation or duty to withdraw the Equipment or any part thereof from the Live Auction Event or to cancel the Live Auction Event. The Equipment shall be sold to the highest bidder on the date of the Live Auction Event.
- 2.4. No Buybacks.** You shall not bid or make an offer directly or indirectly, nor allow any other person to bid or make an offer on your behalf, by agency or otherwise, on the Equipment or any part thereof in any Sales Event.

3. MUTUAL AGREEMENTS

- 3.1. Prohibition of Pre-Sale.** Neither Company nor the you shall sell or offer for sale any part of the Equipment prior to the Live Auction Event without the written permission of the other Party.
- 3.2. Default by Agency.**

If:

 - you withdraw or fail to timely deliver the Equipment or any part thereof or any documents required hereunder, or if the Live Auction Event does not occur as a result of the actions or inaction of you, including without limitation the commencement of liquidation or bankruptcy proceedings of any sort by or against you; or
 - you, directly or indirectly, bids or permits another to bid on your behalf or for your benefit, by agency or otherwise, on the Equipment or any part thereof at the Live Auction Event; or
 - your representations and warranties set out in this Agreement are not true, complete and correct in all respects,then:
 - commissions shall be payable to Company upon demand, based upon the fair market value of any withdrawn or undelivered parts of the Equipment as if they had been sold;
 - any advances made by Company together with accrued interest shall become due and repayable immediately; and

- (f) you will upon demand reimburse Company for all out-of-pocket expenses incurred in preparation for the Live Auction Event.

In the event you are in violation of subparagraph 3.2(b), in addition to any other rights or remedies Company may have under this Agreement, Company shall, at its sole discretion, have the right to sell or re-sell the Equipment by public or private sale and you shall pay to Company as liquidated damages in addition to all other amounts due hereunder, an amount equal to twenty-five percent (25%) of the proceeds realized from such sale or resale. If, pursuant to this section, the Equipment or any part thereof is not sold at the Live Auction Event, such equipment shall be deemed to have been withdrawn by you and the provisions of subparagraph 3.2(d), (e) and (f) shall apply.

3.3. Creation of Lien. In addition to any other rights or remedies available to Company, this Agreement creates a lien and charge upon the Equipment and may be registered under any applicable personal property security legislation as may be in effect from time to time and entitles Company to seize and retain possession of the Equipment as security for and to sell the Equipment to recover all sums owing hereunder.

3.4. Use of Equipment. You authorize Company to operate the Equipment for the purpose of demonstrating it at the Live Auction Event.

3.5. Collection of Proceeds. Company shall collect the full proceeds from the sale of the Equipment and you assign to Company:

- (a) the amount required to discharge and satisfy all Encumbrances in respect of the Equipment; and
- (b) all amounts payable to Company hereunder, including commission and any advances, together with interest thereon which shall be repayable at the time of the sale.

3.6. Company's Right of Set-Off. Company may, in its discretion, apply any proceeds from the sale of the Equipment towards any outstanding amounts otherwise due and owing to Company in connection with any purchases, deficiencies or services rendered by Company.

3.7. Uncollected Proceeds. Company may, as it deems necessary in its sole discretion, re-auction any part of the Equipment not sold or paid for at the Live Auction Event and you acknowledge that no monies shall be payable by Company for any part of the Equipment until it has been paid for in full by the purchaser thereof.

3.8. Other Consignments. Equipment belonging to other owners may be sold at the Live Auction Event.

3.9. Internet Bidding and Timed Auction Lot System. Company may in its sole discretion offer certain lots for sale, in conjunction with its unreserved auction, to registered bidders using its proprietary online bidding service or using its silent "timed auction lot" system. Company shall use its best effort to ensure that such technologies and systems are available at all auctions for which they have been advertised, however at any given sale:

- (a) only those lots which Company deems appropriate shall be offered using such technologies and systems, and
- (b) certain circumstances concerning the internet and the technology in use are beyond Company's control, and such systems may not be available at any given time or auction.

You agree that Company shall be held harmless from any and all claims, demands, suits, actions, causes of action, damages, costs or charges arising from (1) the failure of the internet, servers or other computer or communications components and systems, regardless of whether such failure is caused by the negligence of Company, (2) Company's decision whether or not to use such technologies or systems, or (3) its failure to offer such systems at any time.

**SCHEDULE C TO LISTING AGREEMENT
SUPPLEMENTAL EQUIPMENT DETAILS**

EQUIPMENT INSPECTION AND TRANSPORTATION INFORMATION			
	Contact for Inspection	Alternate Contact for Inspection	Contact for Transportation
Name			
Office Phone			
Mobile Phone			
Fax			
Email			
Date for Inspection			
Special Instructions			
EQUIPMENT LOCATION AND BUYER PICKUP (For additional locations, provide detail on <u>Schedule A</u> for each piece of equipment.)			
LOCATION 1			
Business Name of Equipment Location		Pickup Hours	
Address		Ramps at Location? (Y/N) Max Wgt Capacity	
Loading Dock at Location?(Y/N); Max Wgt Capacity		Will Seller Load? (Y/N)	
Fork Lift Available for Use at Location? (Y/N) Max Wgt Capacity		Special Instructions/ Limitations; Other Loading Facilities	
LOCATION 2			
Business Name of Equipment Location		Pickup Hours	
Address		Ramps at Location? (Y/N) Max Wgt Capacity	
Loading Dock at Location?(Y/N); Max Wgt Capacity		Will Seller Load? (Y/N)	
Fork Lift Available for Use at Location? (Y/N) Max Wgt Capacity		Special Instructions/ Limitations; Other Loading Facilities	
LOCATION 3			
Business Name of Equipment Location		Pickup Hours	
Address		Ramps at Location? (Y/N) Max Wgt Capacity	
Loading Dock at Location?(Y/N); Max Wgt Capacity		Will Seller Load? (Y/N)	
Fork Lift Available for Use at Location? (Y/N) Max Wgt Capacity		Special Instructions/ Limitations; Other Loading Facilities	