



CLWYD CAR AUCTIONS LTD
 CLWYD AUCTION CENTRE
 HOLYWELL ROAD
 EWLOE
 DEESIDE CH5 3BS
 Telephone: (01244) 532821
 Fax: (01244) 531598
 www.clwydauctions.co.uk

TERMS & CONDITIONS FOR SELLING CLWYD CAR AUCTIONS LTD

DEFINITIONS AND INTERPRETATION

- A. "Auctioneer" means any employee or agent of CCA who at the relevant time has the conduct of an auction from the rostrum.
 B. "Accredited Exchequer Scheme Dealer" has the meaning set out in Condition 29D herein.
 C. "CCA" means Clwyd Car Auctions Ltd
 D. "Branch Manager" means the employee of CCA who is in charge of the auction premises at the relevant time.
 E. "Buyer" shall mean the maker of the highest bid accepted by the auctioneer whether on the fall of the hammer or by private treaty sale.
 F. "Engineer" means any person nominated by the branch manager for the purpose of inspecting vehicles.
 G. "Engineer's report" means a document, affixed to a vehicle before it is auctioned, summarising the findings of an engineer commissioned by a seller under Condition 16 herein to report on the vehicle.
 H. "Entry form" means the form provided by CCA to prospective sellers.
 I. "Fleet seller" means any seller who has a subsisting Fleet Sales Agreement with CCA.
 J. "Price" shall mean the highest bid accepted by the Auctioneer including any VAT that may be included therein.
 K. "Seller" includes any prospective seller save where the context otherwise requires.
 L. "Vehicle" includes every kind of motor car, motor cycle and motorised caravan and every kind of commercial, agricultural and other self-propelled vehicle and mechanical and electrical plant and equipment.
 M. The age of a vehicle shall be calculated by reference to the year in which the vehicle was first registered in the United Kingdom. Every reference herein, in any entry form or other document or by the auctioneer to "the age" of a vehicle shall be construed accordingly.
 N. The parties agree that in adjudging the accuracy of the description "no major mechanical defects" the age and, if warranted by the seller, the mileage of the vehicle shall be taken into account.
 O. The headings to numbered Conditions do not form part of the Conditions.

2. ACCEPTANCE OF VEHICLES INTO THE AUCTION

A. CCA shall not be deemed to have accepted a vehicle into the auction unless and until the seller has delivered to CCA and CCA has accepted:-

- (1) the vehicle;
- (2) the vehicle registration document (Form V5) or any official substitute for that document;
- (3) any subsisting test or plating or other certificate relating to the vehicle;
- (4) the keys of the vehicle;
- (5) the entry fee;
- (6) an entry form fully completed and signed by the seller.

B. CCA shall be entitled to accept a vehicle into the auction notwithstanding the seller's failure to deliver any one or more of the foregoing or to complete an entry form.

C. CCA shall be entitled absolutely to refuse to accept delivery of anything referred to at A herein.

3. ENTRY FORMS: FLEET SELLERS

A. CCA may agree with a fleet seller that CCA will complete all or part of an entry form or forms on behalf of the fleet seller but no such agreement shall be implied by reason only of the fact that one or more vehicles has been accepted into the auction without an entry form or with an incomplete entry form.

B. When there is an agreement as aforesaid then save to the extent that the seller has instructed CCA to the contrary either generally or in respect of any particular vehicle CCA shall complete each entry form on the basis that:

- (1) the seller has the absolute right to sell the unencumbered legal and beneficial interest in the vehicle;
- (2) the vehicle has not been treated by an insurance company as a total loss and has not sustained serious accident damage;
- (3) the vehicle has not been owned and/or used by the police and has not been used as a licensed hackney carriage;
- (4) the vehicle has not been re-registered or imported;
- (5) the odometer reading is not warranted;
- (6) the vehicle is to be sold without reserve.

C. The seller is responsible for giving CCA the aforesaid instructions to the contrary whenever appropriate and shall indemnify CCA for any failure to do so and for any costs and liabilities incurred by CCA as a result of the seller's failure to do so.

D. When there is an agreement as aforesaid the seller may give a direction to CCA to auction all or any vehicles "as seen" or may give instructions to CCA as to the mechanical condition of a vehicle in which event CCA shall complete the entry form relating to that vehicle in accordance with the instructions. The seller shall be responsible for the accuracy of such instructions and shall indemnify CCA against any liability arising from their inaccuracy.

E. When no such direction or instructions have been given in respect of any particular vehicle CCA shall be entitled but not obliged to insert details of that vehicle's mechanical condition in the entry form provided that it has first satisfied itself as to the mechanical condition of the vehicle and as to whether it can be used lawfully upon the road but save where it elects to insert details as aforesaid CCA shall auction the vehicle "as seen".

F. When there is an agreement as aforesaid CCA shall not incur any liability to the buyer as a result of any inaccuracy (howsoever arising and by whomsoever caused) in the entry form or in any publication or announcement based thereon but shall indemnify the seller if the seller incurs any liability to the buyer by reason of a failure on the part of CCA to exercise reasonable skill and care.

4. SELLERS

There shall be terms of the contract between CCA and the seller that:

- (1) the seller has the absolute right to sell the unencumbered legal and beneficial interest in the vehicle;
- (2) the vehicle bears its proper registration mark and chassis number;
- (3) each and every entry made by the seller in the entry form is entirely accurate;
- (4) CCA is entitled to publish before the auction (by fixing the entry form or any part thereof or any other document to the vehicle or otherwise) and to announce at the auction any information contained in the entry form or supplied by the seller, any fair summary of any such information and any fair description of the appearance of the vehicle but save as appears elsewhere herein CCA shall not be obliged to make any such publication or announcement.



Managing Director: D.V.Lewis Trudi S. Denton
 V.A.T. No 160 6725 70





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5. THE CONDUCT OF THE AUCTION

- A. The auctioneer without giving any reasons may refuse to accept any bid and may regulate the bidding generally as he sees fit.
- B. Whether or not there is a reserve price the seller may:-
 (1) withdraw a vehicle at any time before the hammer falls;
 (2) bid for a vehicle himself or alternatively appoint not more than one other person to bid for it on his behalf.
- C. The auctioneer and other employees of CCA may accept written (but not oral) instructions to bid on behalf of prospective buyers but are not obliged to accept such instructions. Instructions which are accepted are accepted at the prospective buyer's risk.
- D. The auctioneer shall have an absolute discretion to withdraw a vehicle if in his opinion the bidding does not reach a reasonable level or if in his opinion there are other reasonable grounds for withdrawing the vehicle.
- E. A contract of sale shall be made and a vehicle shall be sold when but only when the hammer falls. The buyer shall be the maker of the highest bid accepted by the auctioneer. The price shall be the amount of the highest bid accepted by the auctioneer.
- F. Immediately after the fall of the hammer the buyer shall give his name and address to a rostrum clerk. If he fails to do so (whether or not he tenders the price) the auctioneer shall have an absolute discretion to cancel the contract of sale.
- G. The auctioneer's decision (for which no reason need be given) shall be final in the event of:-
 (1) any dispute arising during the bidding; or
 (2) a dispute arising after the fall of the hammer as to what bids were made or by whom.
- Any such dispute shall be referred to the auctioneer for his decision. The auctioneer shall have an absolute discretion to cancel the contract of sale and to re-auction the vehicle either during the same or a subsequent auction.
- H. In the event that the auctioneer exercises the discretion to cancel the contract referred to at F and G herein neither the original buyer nor the seller shall be entitled to rely on the original contract of sale for any purpose whatsoever save that the buyer shall be entitled to the return of any deposit or other money which he may have paid thereunder.
- The vehicle shall be deemed to be a vehicle which has not reached its reserve price and to which Condition 25 applies but unless it is sold by way of private treaty sale it shall be re-auctioned either during the same or a subsequent auction.

6. RESERVE PRICES

- A. If the entry form does not contain a reserve price CCA is authorised to auction the vehicle without reserve.
- B. Notwithstanding any instruction to the contrary given by the seller and notwithstanding anything to the contrary inserted in the entry form the seller is deemed to have authorised CCA to auction the vehicle without reserve in each of the following cases (save where CCA or the branch manager has otherwise agreed in writing with the seller):-
 (1) when the vehicle is more than 10 years old;
 (2) when the vehicle is put up for auction "as seen";
 (3) when the branch manager or an assistant authorised by the branch manager for the purpose has marked the entry form to show that in the branch manager's or assistant's opinion the highest bid for the vehicle is likely to be less than such sum as is stated in a written notice displayed at the auction premises as being the then applicable sum hereunder.
- C. When a vehicle is auctioned with a reserve price the vehicle will not be sold unless the highest bid is no less than the reserve (save if the seller authorises a sale during the bidding).
- D. A net reserve may not be specified and the auctioneer shall be entitled to disregard anything in the entry form which purports to qualify a reserve price therein stated.
- E. When a vehicle is auctioned with a reserve price the auctioneer shall not be obliged to announce that fact save if he withdraws the vehicle because it has not reached its reserve. The auctioneer shall not in any circumstances be obliged to announce the reserve price.

7. "AS SEEN" VEHICLES

- A. Unless the auctioneer makes an announcement to the effect that the vehicle was or was treated as a total loss the contract of sale shall contain a term that a vehicle has not been treated by an insurance company as a total loss. Save for that term a vehicle sold "as seen" is sold and purchased for what it is and with its faults (if any) and, save for that term, the contract of sale shall not contain any condition, warranty or other term (whether express or implied and whether implied by statute, common law, custom or otherwise) as to the age, description, suitability, fitness for purpose, satisfactory quality or roadworthiness of the vehicle. All such conditions, warranties and other terms are hereby excluded.
- B. Notwithstanding any instruction to the contrary given by the seller and notwithstanding anything to the contrary which is inserted in the entry form the seller is deemed to have authorised CCA to auction the vehicle "as seen" in each of the following circumstances:-
 (1) when the vehicle is over 5 years old (save when CCA or the branch manager has otherwise agreed in writing with the seller);
 (2) when the sale price is less than such sum as is stated in a written notice displayed at the auction premises as being the then applicable sum hereunder;
 (3) when the vehicle is a commercial vehicle (light or heavy) or comprises an item of plant or equipment;
 (4) when there is neither an entry form containing the required particulars of the mechanical condition of the vehicle nor an engineer's report;
 (5) when the auctioneer is unable to quote the age of the vehicle from either an entry form or a vehicle registration document;
 (6) when the vehicle is being re-sold pursuant to Condition 22 or Condition 23 herein;
 (7) when to the knowledge of the auctioneer a valid or subsisting test or plating or other certificate is required but has not been issued for the vehicle.
- C. Any vehicle which is sold for less than the sum applicable under B(2) herein shall be sold and purchased "as seen" notwithstanding the absence of an express announcement that the vehicle would be sold "as seen". Save as aforesaid a vehicle shall be sold and purchased "as seen" when before or during the bidding the auctioneer announces whether on the instruction of the seller or otherwise that the vehicle is "as seen".
- D. When a vehicle is sold and purchased "as seen" (either by reason of the sale price being less than the sum applicable under B(2) herein or by reason of an announcement by the auctioneer) then the vehicle shall be sold and purchased "as seen" notwithstanding any information about the vehicle displayed or published on the vehicle or elsewhere and notwithstanding anything which the auctioneer may have said about the vehicle before or during the bidding.

8. VEHICLE DOCUMENTS

- A. If CCA accepts a vehicle into the auction notwithstanding the failure of the seller to deliver to CCA either the vehicle registration document or an official substitute for that document the fact that no such document has been delivered to CCA shall be announced by the auctioneer.
- B. If CCA accepts a vehicle into auction and the seller informs CCA that there are subsisting test or plating certificates relating to the vehicle which have not been delivered by the seller to CCA the fact that such certificate or certificates have not been delivered shall be announced by the auctioneer.
- C. In the event of an announcement by the auctioneer under A or B herein:-
 (1) neither the seller nor CCA shall be under any obligation to procure, deliver or produce any document or certificate to which the announcement relates;
 (2) if any document or certificate to which the announcement relates subsequently comes into the possession of CCA the only obligation on CCA shall be to post the same to the buyer at an address recorded for him in the entry form or invoice.



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9. EXCISE LICENCES

If a current vehicle excise licence is passed to CCA at the time of sale it shall become the property of the buyer.

10. THE CONTRACT OF SALE

A. The parties to the contract of sale are the buyer and the seller. CCA is not a party to the contract of sale and is not liable for any breach thereof by either the buyer or the seller.

B. It shall be a term of the contract of sale that the buyer accepts the bodywork, the tyres, the exhaust, the battery and the upholstery of the vehicle with all damage and defects (if any) which an inspection of the interior and the exterior ought reasonably to reveal.

C. It shall be a term of the contract of sale that the vehicle has not been treated by an insurance company as a total loss save when the auctioneer makes an announcement to the effect that it was or was treated as a total loss.

D. Save when a vehicle is sold and purchased "as seen" and save to the extent that the auctioneer announces facts which indicate the contrary it shall be a term of the contract of sale that the vehicle has not sustained serious accident damage, has not been used by the police or as a licensed hackney carriage and is in such a condition as to be lawfully used upon the road.

E. Save as appears from Conditions 7 and 11A(3) herein it shall be a term of the contract of sale that any description applied to the vehicle:-

(1) by the auctioneer;

(2) by an engineer's report or any other document affixed to the vehicle by CCA prior to the auction (save to the extent that such report or document is qualified or corrected by the auctioneer);

is reasonably accurate.

F. When a vehicle is described by the auctioneer as having no major mechanical defects that description shall be construed as meaning that there is no major mechanical defect in (but only in) the engine, gearbox, clutch, brakes, steering and transmission of the vehicle.

G. Save as aforesaid there shall be no term of the contract of sale, express or implied and whether implied by statute, common law, custom or otherwise as to the age, description, suitability, fitness for purpose, satisfactory quality or roadworthiness of the vehicle and the vehicle is sold on the basis that any other description of or representation concerning the vehicle, howsoever given and whether given in something published (by virtue of being affixed to the vehicle or otherwise) or in an announcement by the auctioneer is or may be inaccurate.

11. CCA UNDERTAKINGS

A. CCA undertakes and represents that:-

(1) each vehicle offered at the auction has been accepted by CCA into the auction in good faith;

(2) the seller has the absolute right to sell the unencumbered legal and beneficial interest in the vehicle;

(3) the vehicle's mileage indicated by the odometer is accurate if but only if and to the extent if any that the auctioneer both announces a vehicle's mileage and states that it is accurate. Save to the extent that the auctioneer has made such an announcement as to the accuracy of the mileage indicated on the odometer CCA gives no undertaking and makes no representation as to the vehicle's mileage and the vehicle is sold on the basis that any indication of the vehicle's mileage given by the vehicle's odometer by anything attached to the vehicle or by the auctioneer is or may be inaccurate;

(4) unless the entry form discloses that a vehicle is or has been treated by an insurance company as a total loss and the auctioneer makes an announcement to this effect, the vehicle is not and has not been treated as a total loss by an insurance company;

(5) unless the vehicle is sold and purchased "as seen" the auctioneer will announce details of any major mechanical defect disclosed in the entry form;

(6) unless the vehicle is sold and purchased "as seen" if the entry form discloses that a vehicle has sustained serious accident damage, has been owned and/or used by the police or as a licensed hackney carriage, has been re-registered or imported or is not in such a condition as to be used lawfully upon the road the auctioneer will announce the matter or matters disclosed.

B. In the event of any breach of the above undertakings and representations then CCA will be liable to the buyer in damages. CCA's liability for such breach of the above undertakings and representations shall not exceed the price paid for the vehicle by the buyer and in the case of claims in respect of mileage shall be subject to any such claim being notified to CCA within 7 days of the contract of sale. Save as aforesaid CCA gives or makes no undertaking, representation or warranty with regard to any vehicle and no such undertaking, representation or warranty on the part of CCA, the auctioneer or the branch manager is given or made or is to be implied as to the age, mileage, description, suitability, fitness for purpose, satisfactory quality or roadworthiness of any vehicle by virtue of anything contained in these Conditions or by reason of any one or more of the following:

(1) the fact that CCA has accepted the vehicle into the auction;

(2) the invitation by the auctioneer for bids for the vehicle;

(3) the publication by CCA of anything which CCA is authorised to publish by virtue of Condition 4(4) herein;

(4) the announcement by the auctioneer during the auction, whether before or after the invitation to bid, of anything which the auctioneer is authorised to announce by virtue of Condition 4(4) herein;

(5) the fact that an engineer's report or any other document has been affixed to the vehicle or that any particular statement has been made in any such report or other document;

(6) the fact that pursuant to Condition 3 herein CCA inserted in the entry form particulars of the mechanical condition of the vehicle or that any particular statement was inserted.

12. INDEMNITY GIVEN BY SELLER

A. If any undertaking, representation or warranty is found to have been given or made by CCA in good faith and as a result of:

(1) anything which CCA or the auctioneer is authorised to publish or announce by virtue of Condition 4(4) herein; or,

(2) a fair and reasonable description based on the then appearance of the vehicle;

then such undertaking, representation or warranty shall be deemed to be given or made by the seller who shall indemnify CCA against any liability and costs therefor whatsoever and howsoever arising.

. If CCA shall incur any other liability in good faith and as a result of the matters aforesaid then the seller shall indemnify CCA in respect of that liability whatsoever and howsoever arising.

13. STATUTORY PROVISIONS

If or to the extent that any of these Conditions whether hereinbefore or hereinafter set out are Conditions to which any of the provisions of the Unfair Contract Terms Act 1977 or the Supply of Goods and Services Act 1982 or any subsequent modification or reenactment thereof apply then such Conditions shall be enforceable only to the extent permitted by those Acts or their subsequent modification or re-enactment and these Conditions shall be construed accordingly



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14. UNROADWORTHY AND DEFECTIVE VEHICLES

A. The buyer agrees that if a vehicle:

- (1) is in such a condition either by reason of its construction, the state of its brakes, steering, tyres, lighting equipment, reflectors or other parts that it is unroadworthy or cannot otherwise be used lawfully on a road;
 - (2) does not have a valid Department of Transport test certificate or plating certificate or any other certificate required by law;
- then the buyer will not use the vehicle on any road or remove it from the auction premises under its own power until it is roadworthy, can be used lawfully on the road and has all necessary certificates.

B. The buyer further agrees that if required to do so by CCA he will provide a written undertaking (in a form acceptable to CCA) to comply with all duties and obligations imposed on him in respect of the vehicle by the Road Traffic Act 1972, The Health and Safety at Work Act 1974, any subsequent modification or re-enactment of either Act or by any other legislation affecting the use of the vehicle. If the buyer fails to provide such an undertaking upon request CCA shall be entitled absolutely to cancel the contract of sale and any deposit which the buyer may have paid shall be forfeited. The vehicle shall then be deemed to be a vehicle which has not reached its reserve price and to which Condition 25 applies but unless it is sold by way of private treaty sale it shall be re-auctioned either during the same or a subsequent auction.

15. RESCISSION

A. The seller and the buyer agree that without prejudice to any other rights or remedies which the buyer may have against the seller CCA shall be entitled to and will accept rescission of the contract of sale provided that the conditions set out at B herein are met and that the buyer wishes to rescind on one or more of the following grounds, namely that:-

- (1) the vehicle has been treated by an insurance company as a total loss but this fact was not announced by the auctioneer; or,
- (2) the vehicle was not sold and purchased "as seen" and:-
 - i) the vehicle was used by the police or was used as a licensed hackney carriage but this fact was not announced by the auctioneer; or,
 - ii) the auctioneer did not refer to a major mechanical defect in or materially misrepresented the condition of the engine, the gearbox, the clutch, the brakes, the steering or the transmission of the vehicle; or,
 - iii) the mileage was announced by the auctioneer and stated to be accurate but was not reasonably accurate; or,
 - iv) the age of the vehicle was misrepresented when the vehicle was before the rostrum.

B. The conditions which have to be met are that:

- (1) the buyer has not effected any sub-sale of the vehicle;
- (2) the buyer has delivered the vehicle and written notice of his claim to the engineer or the branch manager within the time specified at C herein, time being of the essence;
- (3) when written notice is given the buyer is not in breach of any obligation as to payment which has by then arisen under Condition 20;
- (4) in the opinion of the engineer (which opinion he shall be deemed to give in the capacity of an expert and not as an arbitrator) the grounds or any of them specified by the buyer are substantially correct.

C. When the buyer relies on A(1) herein (vehicle treated as insurance total loss) or A(2)(iii) herein (mileage) written notification of the claim must be delivered by no later than 5 pm on the fifth day (excluding any Sunday) after the auction. When the buyer relies on A(2)(iv) herein (age) written notification of the claim must be delivered by no later than 5 pm on the third day (excluding any Sunday) after the auction. In any other case written notification must be delivered by no later than 1 hour after the conclusion of the auction. In each case "the auction" means the auction during which the vehicle was sold.

D. CCA shall have an absolute discretion to waive all or any of the conditions set out at B herein.

E. CCA shall be under no liability to the seller by reason of the fact that there has been rescission pursuant to this Condition.

16. ENGINEER'S REPORT

A. CCA shall be entitled to refuse a seller's request for an engineer's report but subject to that right and in consideration of the charge for the time being applicable when requested to do so by the seller shall cause an engineer to inspect and report upon a vehicle on behalf of the seller.

B. The engineer shall use reasonable skill and care.

C. For the purpose of these Conditions an engineer's report shall be deemed to be a document supplied to CCA by the seller. CCA shall not incur any liability to the buyer as a result of any inaccuracy in the engineer's report or of any publication or announcement based thereon but shall indemnify the seller if the seller incurs any liability to the buyer as a result of a failure on the part of the engineer to exercise reasonable skill and care.

D. When an engineer's report has been commissioned CCA shall affix a copy thereof to the vehicle before it is auctioned and shall be entitled but not obliged to announce during the auction the fact that an engineer's report has been commissioned.

E. The seller and the buyer agree that without prejudice to any other rights and remedies which the buyer may have against the seller CCA shall be entitled to and will accept rescission of the contract of sale or (if the amount of the refund can be agreed by the buyer and the branch manager) will refund to the buyer such part of the purchase price as is in the circumstances reasonable if:

- (1) in the opinion of the branch manager a statement made in the engineer's report was materially inaccurate with regard to the condition of the engine, the gearbox, the clutch, the brakes, the steering or the transmission; and,
- (2) within 1 hour after the conclusion of the auction during which the vehicle was sold the buyer delivers to CCA the vehicle, its keys and all documents supplied to the buyer.

F. CCA shall have an absolute discretion to waive the time-limit in Condition E(2) herein.

G. In the event that the contract is rescinded as aforesaid the engineer's report shall be corrected and the vehicle shall be re-auctioned. The seller will not be charged a second entry fee and as between the seller and CCA these Conditions shall apply as if the original sale had not taken place.

H. In the event that part of the purchase price is refunded as aforesaid the purchase price shall thereafter be deemed to be the original purchase price less the refund.

17. CCA CHARGES

A. CCA shall maintain a list of charges which it shall be at liberty to vary from time to time and that list shall include the entry fee payable, the service charge, the buyer's fee, the commission payable by reference to the price and the fee for an engineer's report.

B. CCA shall be entitled to charge an entry fee when a vehicle is entered for auction and if for any reason the vehicle is not sold when it is before the rostrum or subsequently has to be re-sold then CCA shall be entitled to charge a further entry fee in respect of each and every subsequent occasion when it is before the rostrum (save when Condition 16G applies).

C. CCA shall be entitled to charge the commission and the buyer's fee:



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(4) when the vehicle is re-sold pursuant to Conditions 22 or 23 herein.

D. CCA shall be entitled to charge an entry fee and commission and the buyer's fee on any sub-sale effected by the buyer at the auction premises.

E. The seller shall be liable to pay to CCA upon demand any entry fee or fees, commission or other sums due to CCA whether or not payment is received from the buyer.

F. CCA shall be entitled to charge a parking fee in accordance with Condition 19 herein.

18. PASSING OF PROPERTY

A. The property in the vehicle shall not pass to the buyer until the price and the buyer's fee has been paid to CCA and any cheque or other instrument tendered in payment has been cleared. Until property passes the seller reserves the right to dispose of the vehicle.

B. Condition 18A herein shall prevail notwithstanding the fact that the buyer is an account customer of CCA and/or the fact that CCA permits the buyer to remove the vehicle from the auction premises and/or waives any of the provisions of Conditions 20B to G herein.

C. If any cheque given by the buyer is not honoured on first presentation the seller (without prejudice to his other rights) shall be entitled to enter upon any premises of the buyer to repossess the vehicle.

19. RISK AND PARKING FEES

A. At all times from the delivery of a vehicle to CCA whether at the auction premises or elsewhere until the vehicle is sold or removed by the seller (including any time during which the vehicle is being tested or demonstrated on the auction premises, a public highway or elsewhere) the vehicle is at the risk of the seller. From the time when a vehicle is sold (and notwithstanding Condition 18 herein) it is at the risk of the buyer.

B. A vehicle, whether or not sold, which is not removed from the auction premises by close of business on the second day after the auction shall thereafter incur a parking fee at such daily rate as is stated in a written notice displayed at the auction premises as being the then applicable sum hereunder and CCA shall have a lien on the vehicle in respect of any unpaid parking fees.

20. PAYMENT BY THE BUYER

A. The price and the buyer's fee must be paid by the buyer to CCA.

B. The minimum deposit is whichever of the following is the higher, namely 10 per cent of the price or such sum as is stated in a written notice displayed at the auction premises as being the then applicable sum under this Condition.

C. Save when E or F herein apply the minimum deposit must be paid in cash or by banker's draft to the rostrum clerk immediately after the fall of the hammer.

D. Save when E or F herein apply the balance of the price must be paid by cash, banker's draft or cheque delivered to CCA by not later than 12 noon on the first working day after the auction.

E. When the buyer is an account customer he may pay the price by cheque provided that:-

(i) he ensures that immediately after the fall of the hammer his name is recorded by CCA and he produces such evidence as CCA may require that he has an account with CCA;

(ii) during or not later than one hour after the auction he tenders a cheque for the price to CCA;

(iii) he produces his CCA cheque account card when he tenders his cheque;

(iv) his cheque is drawn on the bank named on the cheque account card and is for a sum not in excess of the cheque limit stated on the cheque account card.

(ii) during or not later than one hour after the auction the dealer does the things required by sub-conditions 29E(1) to (3).

G. No one except an account customer or an Accredited Exchequer Scheme Dealer shall be entitled to remove a vehicle from the H. CCA shall be entitled to waive or vary B to E herein whenever CCA sees fit and CCA shall not incur any liability to the seller as a result of such waiver or variation.

I. CCA shall be entitled to grant account facilities to customers whenever and on such terms as CCA sees fit.

J. Save when the buyer rescinds the contract under Conditions 15 or 16 herein and save when Conditions 5H or 24B apply a deposit paid by the buyer shall not in any circumstances be refundable or refunded to the buyer.

21. PAYMENT BY CCA TO THE SELLER

A. CCA shall not be obliged to pay the price or any deposit to the seller unless and until CCA has received the price or any such deposit and any cheque given in respect thereof has been cleared. B. CCA shall be entitled to deduct from or set off against any payment made to the seller any debt due from the seller to CCA and

any unliquidated claim which CCA may have against the seller.

C. The seller agrees that if CCA in fact pays to the seller the price less any deductions authorised by B herein before the price has been paid to CCA or before any cheque or other instrument given in respect thereof has been cleared then the seller's title to the vehicle and all the seller's rights arising under and in connection with the contract of sale shall forthwith be transferred to CCA.

If requested to do so the seller will execute a legal assignment to CCA of the seller's title and the said rights.

D. If the contract is cancelled under Condition 5 or rescinded under Conditions 15 or 16 CCA shall be entitled to withhold the price or any deposit from the seller and to refund the same to the buyer.

E. If CCA has reasonable grounds to believe:

(1) that the seller was not entitled to sell the vehicle; or

(2) that the seller should have notified CCA in the entry form or otherwise that he was not the owner of the vehicle but failed to do so; or

(3) that any facts which the seller notified to CCA in the entry form or otherwise concerning the ownership of the vehicle were inaccurate;

then CCA shall be entitled to withhold any sum which would otherwise be payable by CCA to the seller until the seller establishes to the satisfaction of CCA that the seller was not in breach of any express or implied term of the contract of sale and if the same is not established within a reasonable time:-

(a) to retain any such sums until all questions of title have been resolved;

(b) to pay any such sums to anyone who to the reasonable satisfaction of CCA establishes title to the vehicle;

(c) to interplead and to pay any such sums into Court.

F. In the event that CCA becomes liable to pay interest to any person by reason of the fact that CCA retained any such sums as aforesaid CCA shall be entitled to recover such interest from the seller.

22. RE-SALE WHEN SELLER AT FAULT

A. The seller shall be deemed to have authorised CCA to auction a vehicle "as seen" at the auction next occurring at the auction premises if CCA has notified the seller:

(1) that the contract has been rescinded under Condition 15 herein; or

(2) that the vehicle was not sold when it was before the rostrum;

and if the seller fails by the end of the working day next following the receipt or deemed receipt of such notification to instruct CCA as to the action which the seller requires CCA to take.

B. Notification given by post to the seller at the address recorded for him in the entry form shall be deemed to have been received by the seller in the ordinary course of post whether or not the letter containing such notification is returned to CCA by the Royal Mail.



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23. DEFAULT BY THE BUYER

A. If any cheque given to CCA by the buyer is not honoured on first presentation or if the buyer has in any way failed to comply with his obligations to pay for the vehicle CCA shall be entitled but not obliged:-

- (1) to sue in CCA's own name on the cheque or for the price;
- (2) to re-present any cheque;
- (3) without prejudice to any other rights which the seller may have against the buyer for breach of contract or otherwise forthwith as agent for the seller to treat the contract as having been discharged by the buyer's breach thereof;
- (4) to exercise in CCA's own name by action or otherwise all the seller's rights to determine or avoid the contract and/or to recover the vehicle from the buyer or from anyone to whom the buyer may have disposed of the vehicle and/or to claim the price or damages from the buyer;
- (5) to re-auction the vehicle.

B. When notice to the buyer is necessary to determine, avoid or rescind the contract such notice shall be deemed to be given effectively if contained in a letter posted to an address recorded for the buyer in the entry form or invoice whether or not the letter containing such notice is returned to CCA by the Royal Mail and, if the contract is avoided on the ground of fraud, such notice shall also be deemed to have been given effectively if the police are given notice of the buyer's fraud.

C. If, through no fault of CCA, the buyer fails to remove the vehicle from the auction premises by the expiration of 14 days from the date when the buyer first became entitled to remove the vehicle CCA shall be entitled to re-auction the vehicle.

D. When a vehicle is re-auctioned pursuant to A(5) or C herein:-

- (1) if the vehicle is more than 5 years old or was originally sold "as seen" it will be sold "as seen";
- (2) in any other case CCA will have an absolute discretion to sell the vehicle on the basis of the original entry form or "as seen".

E. CCA shall apply the re-sale price to discharge the following debts in the following order:-

- (1) the entry fee and commission due to CCA on the re-sale;
- (2) parking fees, if any, owed to CCA;
- (3) any sum due under the original contract of sale.

The balance of the re-sale price, if any, shall be paid to the buyer if property in the vehicle has passed to him but shall otherwise be paid to the seller or, where the seller's rights have been transferred to CCA under Condition 21C herein, shall be retained by CCA. Save to the extent that the application of the re-sale price has discharged his liability the original buyer shall remain liable in respect of any sum owed to CCA or to the original seller under the original contract of sale or otherwise.

F. If any cheque given to CCA by the buyer is not honoured on first presentation by CCA the buyer shall forthwith cease to be entitled to use any cheque account card issued to him by CCA.

24. RIGHTS RESERVED TO CCA

A. CCA reserves to itself the following rights which it may exercise without any reason being given, namely the rights:

- (1) to refuse to allow any person to enter the auction premises;
- (2) to refuse to allow any vehicle to be brought on to the auction premises;
- (3) to require a seller forthwith to remove a vehicle from the auction premises and if the seller fails to do so to effect such removal and to recover the cost thereof as a debt due from the seller;
- (4) to provide either party to the contract of sale with the name and address of the other party in the case of any dispute;
- (5) to allocate such lot numbers to vehicles as BCA sees fit and notwithstanding the lot numbers which are allocated to auction vehicles in such order and at such times as BCA sees fit.

B. If before CCA has parted with possession of a vehicle a claim is made against CCA arising out of or connected in any way with the title of the seller or his authority to sell or authorise sale CCA shall be entitled absolutely but not obliged to retain the vehicle pending the resolution of such claim and/or to refund any money paid to CCA by the buyer.

25. PRIVATE TREATY SALES

A. If a vehicle fails to reach its reserve price CCA shall be entitled but not obliged to inform the seller of the highest bid and to provide facilities and services which the seller may utilise to make a contract for the sale of the vehicle to the highest bidder or to any other person interested in the vehicle.

B. A private treaty sale shall mean:

- (1) any sale resulting from the provision of the aforesaid information, facilities or services;
- (2) any other sale of the vehicle which is agreed at the auction premises but is not a sale effected by the fall of the hammer in the auction hall.

C. When a private treaty sale occurs BCA shall be entitled to commission and the buyer's fee and in a case within B(2) to an additional entry fee.

D. Whether or not the vehicle was put up for auction "as seen" Condition 7 shall not apply to a private treaty sale. The terms of a private treaty sale shall not and shall not purport to exclude any statutory rights which the buyer may have but save as aforesaid shall be on such terms as are expressly or by implication agreed by or on behalf of the parties to the private treaty sale.

E. CCA is not and shall not be deemed to be a party to or liable upon a private treaty sale and shall not incur any liability to any party thereto by reason only of the fact that CCA has done one or more of the following, namely:

- (1) transmitted information or said anything which the auctioneer could properly have said;
- (2) communicated any offer or acceptance;
- (3) negotiated a contract without disclosing the name or address of either or both parties to the other party;
- (4) agreed to reduce its charges;
- (5) issued an invoice;
- (6) supervised the payment of or received the purchase price;

supervised the release of a vehicle.

F Conditions 12, 14 to 16, 19 to 23, 24B, 26, 28 and 29 shall apply to private treaty sales with the following alterations:-

- (1) References (however expressed) to things said by the auctioneer shall be taken as referring to things said by the auctioneer when, prior to the private treaty sale, the vehicle was last before the rostrum.
- (2) References (however expressed) to the auction at which the vehicle was sold shall be taken as referring to the auction during which the vehicle was last before the rostrum.
- (3) A private treaty sale may be rescinded under Condition 15 or 16 at any time on the day of sale until the CCA branch concerned closes.



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- (4) The words "to CCA" shall be substituted for the words "to the rostrum clerk" in Condition 20C.
 (5) The words "when CCA is asked to communicate an offer to the seller or, if no such request is made, when the private treaty sale is concluded" shall be substituted for the words "immediately after the fall of the hammer" in conditions 20C, E and F.
 (6) A deposit paid when CCA is requested to communicate an offer to the seller shall be refunded if that offer is not accepted.
 G. In the event of a dispute between the parties to a private treaty sale CCA shall be obliged to do no more than provide each party with the name and address of the other.

26. BUYERS FEE

- A. All buyers will be charged a buyers fee, which shall be payable to CCA and which will be charged on the price, in respect of services provided by CCA to the buyer.
 B. It is a condition of the contract of sale or the private treaty sale in respect of a vehicle that when the buyer pays the price or the balance of the price of the vehicle pursuant to Condition 20 he shall also pay to CCA the buyers fee then applicable, details of which are available on request.
 C. It is a condition of the contract of sale or the private treaty sale in respect of a vehicle that if the buyers fee is not paid as aforesaid the buyer shall not be entitled to remove the vehicle from the auction premises, shall be deemed for all purposes to have failed to pay the price in full and shall be liable to CCA and the seller accordingly.

CONDITIONS OF SELLING

CLWYD CAR AUCTIONS LTD
DATED 1st MARCH 2016



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