

Auction Terms and Conditions

1. Definitions

1.1. In these terms and conditions:

Auctioneer means SUNDAY AUCTION and/or nominee.

Auction Buyer Terms means the terms between the Purchaser and SUNDAY AUCTION.

Auction Seller Terms means the terms between the Vendor and SUNDAY AUCTION.

Purchaser means the bidder with the highest bid for a Vehicle at a Sunday Drive Auction and who has been accepted by the Auctioneer as the winning bid in accordance with these Terms and Conditions.

Reserve Price means a reserve price specified by the Vendor to the Auctioneer in writing in connection with the Vendor's Vehicle being sold via a Sunday Drive Auction.

SUNDAY AUCTION means Sunday Consignment Limited.

Sunday Drive Auction means a live auction undertaken by the Auctioneer for the sale of a Vehicle via the Sunday Drive Auction Platform and/or held in person at the Sunday Drive premises at 363 Church Street, Penrose, Auckland.

Sunday Drive Auction Platform means the SUNDAY AUCTION website/platform used to conduct Sunday Drive Auctions, operated by SUNDAY AUCTION.

Terms and Conditions means these terms and conditions which apply to all Sunday Drive Auctions.

User means:

- (a) any user of the Sunday Drive Auction Platform;
- (b) any person who has registered to participate in a Sunday Drive Auction held in person at the Sunday Drive premises; and
- (c) includes any Purchaser or Vendor.

Vendor means the registered owner of the Vehicle being sold via the Sunday Drive Auction.

Vehicle means the motor vehicle owned by the Vendor being sold via of a Sunday Drive Auction.

Website Terms means SUNDAY AUCTION's general terms and conditions applying to all users of the Sunday Drive Auction Platform, as updated from time to time.

2. Introduction

2.1. The Sunday Drive Auctions:

- (a) are operated by SUNDAY AUCTION, a registered motor-vehicle trader; and
- (b) are conducted by the Auctioneer.

2.2. SUNDAY AUCTION is the agent of the Vendor and has the Vendor's authority to conduct the Sunday Drive Auction to sell the Vehicle on behalf of the Vendor. This means that for the purposes of each Sunday Drive Auction, SUNDAY AUCTION is not a supplier for the purposes of the Consumer Guarantees Act 1993.

- 2.3. The Sunday Drive Auctions are auctions compliant with s36X(1) of the Fair Trading Act 1986.
- 2.4. These Terms and Conditions apply to each User's access to a Sunday Drive Auction (whether in-person or by way of the Sunday Drive Auction Platform). By registering to access a Sunday Drive Auction, the User is deemed to be bound by these Terms and Conditions and represents, warrants and acknowledges that it has read and understood these Terms and Conditions.
- 2.5. The User is responsible for ensuring it is familiar with the latest Terms and Conditions. These Terms and Conditions may be amended whether in whole or in part by SUNDAY AUCTION at any time. Any changes SUNDAY AUCTION makes will be effective immediately upon posting a revised version of the Terms and Conditions on the Sunday Drive website. By continuing to access Sunday Drive Auctions, the User agrees to be bound the Terms and Conditions as amended.
- 2.6. The terms governing the Sunday Drive Auctions incorporate the Auction Seller Terms, the Auction Buyer Terms and Website Terms and form part of these Terms and Conditions.

3. Registration Account and Credit Checks

- 3.1. The User must register to access the Sunday Drive Auctions and use the Sunday Drive Auction Platform through the registration form available on the Sunday Drive Auction Platform or otherwise made available in printed form by hand.
- 3.2. SUNDAY AUCTION may need to verify the User's identity as part of the registration process and/or prior to access to any Sunday Drive Auction. If this is necessary, the User must do all things necessary to provide proof of identity or any other reasonable proof as required by SUNDAY AUCTION. In the course of verifying a User's identity, SUNDAY AUCTION shall do all things necessary to comply with relevant privacy law.
- 3.3. The User acknowledges and understands that by registering to access the Sunday Drive Auctions, the User is deemed to have consented and authorised SUNDAY AUCTION to use the User's personal information to undertake a credit check on the User, including providing the User's personal information to credit agencies.
- 3.4. In respect of access to the Sunday Drive Auction Platform, it is the sole responsibility of the User to ensure that they keep their account details private and protected at all times. SUNDAY AUCTION will not be responsible for any unauthorised use of a User's account on the Sunday Drive Auction Platform.
- 3.5. If there is unauthorised access to a User's account on the Sunday Drive Auction Platform, it is that User's responsibility to notify SUNDAY AUCTION immediately so that the password may be changed immediately. SUNDAY AUCTION will not have liability for a User's failure to comply with these obligations.

4. Use of Sunday Drive Auctions Platform

- 4.1. Each User agrees to (without limitation):
 - (a) Not use the Sunday Drive Auction Platform for an unlawful use, including any manner that may adversely impact the Sunday Drive Auction Platform and/or Sunday Drive Auction;
 - (b) Not misrepresent itself to be any other person or legal entity;
 - (c) Not unlawfully gain access to any other User's account;
 - (d) Not upload or attempt to upload any software viruses or other computer code or programmes that may destroy or adversely impact or limit the functionality of any

computer software or hardware used in connection with the Sunday Drive Auction Platform and/or Sunday Drive Auction.

5. Sunday Drive Auction Terms

- 5.1. The Purchaser warrants it has sufficient funds to meet its purchase price obligations should it have a successful bid under a Sunday Drive Auction.
- 5.2. All bids must be accepted by SUNDAY AUCTION (and/or the Auctioneer) before they are binding. SUNDAY AUCTION and/or the Auctioneer may reject a bid at its absolute discretion.
- 5.3. Once a bid is accepted by SUNDAY AUCTION (and/or the Auctioneer), it is binding on that User. If it is the final bid (provided it meets the Reserve Price for the relevant Sunday Drive Auction and has been accepted by the Auctioneer), it will be the binding purchase price on that User and that User will be bound to purchase the Vehicle in accordance with these Terms and Conditions (including the Auction Buyer Terms)
- 5.4. If the final bid does not meet the Reserve Price for the relevant Sunday Drive Auction, unless agreed otherwise by the Vendor and Auctioneer, the Vehicle will not be deemed to have been sold to any User.
- 5.5. The successful bidder of a Sunday Drive Auction (i.e. the Purchaser) will:
 - (a) be notified it has won the Sunday Drive Auction either by email to the Purchaser's registered email address or otherwise in person (if the Purchaser is at the Sunday Drive Auction in person);
 - (b) be provided with an invoice relating to the purchase of the Vehicle and to sign any buyer/sell acknowledgement (or VOSA) provided by SUNDAY AUCTION;
 - (c) will be deemed to be bound by the Auction Buyer Terms in connection with the purchase of the Vehicle.
- 5.6. The Purchaser agrees to make payment of the purchase price for the Vehicle in accordance with the invoice provided to the Purchaser in accordance with clause 5.5.
- 5.7. The User will be responsible for ensuring that all bidding details are correct prior to making a bid in a Sunday Drive Auction. SUNDAY AUCTION will not be responsible or liable for any incorrect details in a bid, nor will it be responsible or liable for any system failure or error which results in a bid not being accepted.
- 5.8. SUNDAY AUCTION and the Auctioneer reserves the right, at its sole and absolute discretion, to refuse any User from participating in a Sunday Drive Auction, or to refuse to accept any bid.

6. Liability

- 6.1. Each User acknowledges that:
 - (a) SUNDAY AUCTION gives no warranty or representation that the Sunday Drive Auction Platform will be wholly free from interruptions, defects, errors and bugs;
 - (b) The operation and availability of the systems used for using and access the Sunday Drive Auction Platform can be unpredictable and may from time to time interfere with or prevent access to the Platform. Without limitation to the aforesaid, it is the responsibility of the User to ensure it has sufficient software, hardware and systems to support use and access to the Sunday Drive Auction Platform. SUNDAY AUCTION is not in any way responsible for any interference or prevention of access or use of the Sunday Drive Auction Platform;

- (c) SUNDAY AUCTION has no liability for any bids that are not processed or accepted due to issues/errors on the Sunday Drive Auction Platform;
- (d) Nothing in these Terms and Conditions shall limit the operation of the Fair Trading Act 1986 and the Consumer Guarantees Act 1993.

7. General

- 7.1. These Terms and Conditions shall be governed by and interpreted in accordance with the laws of New Zealand.
- 7.2. These Terms and Conditions constitute the entire agreement between the parties regarding the matters set out in it and supersedes any prior representations, understandings or arrangements made between the parties whether orally or in writing or otherwise.
- 7.3. If any clause or part of any clause is in any way unenforceable, invalid or illegal, it is to be read down so as to be enforceable, valid and legal, if this is not possible, the clause (or where possible, the offending part) is to be severed from these Terms and Conditions without affecting the enforceability, validity or legality of the remaining clauses (or parts of those clauses) which will continue in full force and effect.
- 7.4. To extent permitted by law, the parties contract out of the Contract and Commercial Law Act 2017.