

TERMS AND CONDITIONS OF AUCTION SALE

These conditions apply to all sales held by H&H Classics Limited in England and Wales to the exclusion of all other Terms and Conditions and no alteration or modification to these Conditions will be binding on H&H Classics Limited unless accepted in writing by them.

Your attention is specifically drawn to the **“Notes for Intending Purchasers”** published immediately before the Terms and Conditions of Business in the catalogue.

DEFINITIONS

In these Terms and Conditions the following words and expressions shall unless the context otherwise requires have the following meanings:

Auctioneer means H&H Classics Limited whose Registered Office is at 8 Eastway, Sale, Cheshire UK M33 4DX; company number 02652199 and **Auctioneer** means its representative who actually conducts the sale.

Bidders Registration Form means the form to be completed by each bidder pursuant to Condition 12.5.

The **Buyer** is the only person whose bid is accepted by the Auctioneer to conclude the contract for the purchase of a Lot.

Buyer's Commission shall have the meaning given in Condition 14.

Catalogue includes any advertisement, brochure, estimate, price list and other publication generated or published by or on behalf of the Auctioneer in relation to a sale.

Contract means the contract formed pursuant to these Conditions between any of the Seller, the Buyer and the Auctioneer.

Entry Form means the form to be completed by the Seller as to each separate Lot pursuant to Condition 1.1.

Estimated Value means the value given by the Seller in the Entry Form as the Estimated Value of the vehicle and if more than one value is given, the higher of those values.

Expenses in relation to a Lot means the Auctioneer's charges and expenses for illustrations, special advertising, packing, freight, transport, storage and any other charges and expenses of that Lot (other than the commission) plus VAT on any of them.

The charges for uplifting an item, either sold or unsold, into storage, with charges, are as follows:

Cars

Uplift - £150
Storage - £10 per day for the first fourteen days or part thereof and £30 per week or part thereof thereafter (subject to change without notice).

Motorcycles

Uplift - £50
Storage - £5 per day for the first fourteen days or part thereof and £12 per week or part thereof thereafter (subject to change without notice).

Bicycles

Uplift - £20
Storage - £3 per day for the first fourteen days or part thereof and £8 per week or part thereof thereafter (subject to change without notice).

Automobilia/Motobilia

Charges for these items are determined by size and weight:

'A' - the standard charge and will not be marked in the sales catalogue - £5 uplift and £1 per day storage (subject to change without notice).
'B' - larger items and marked * in the sales catalogue - £10 uplift, £2 per day storage (subject to change without notice).
'C' - the largest items marked ** in the sales catalogue - £30 uplift, £5 per day storage (subject to change without notice).
'R' - items needing to be 'Referred' for individual quotations marked 'R' in the sales catalogue (subject to change without notice).

Hammer Price means the price in £ sterling at which a Lot is knocked down by the Auctioneer to the Buyer at the fall of the hammer.

Lot means any item or items consigned with a view to its or their sale at auction.

Premises means the place at which the Auctioneer are conducting that particular sale.

Reserve means the minimum Hammer Price (if any) agreed between the Auctioneer and the Seller at which the Lot may be sold.

The Sale means the auction sale in respect of which the Lot is consigned for sale.

Sale Proceeds means the net amount payable by the Auctioneer to the Seller being the Hammer Price less the sum of the commission, the expenses, the entry fee (if not already paid) and the VAT chargeable on any of them.

Seller means the person who offers the Lot for sale whether or not he is the true owner and shall include the Agent as well as the Principal.

Seller's Commission means commission payable by the Seller pursuant to Condition 6.

Stated rates means the usual rates of Commission, Entry Fees and any other charges for the time being plus the VAT chargeable on any of them. The current rates are as follows:

Cars

10% to the Buyer (minimum £150), 5% to the Seller (minimum £150)
Entry Fee - £150 for a half page in the catalogue
£250 for a full page
£400 for two pages or more

Motorcycles

10% to both the Buyer and the Seller (minimum £50 to both parties)
Entry Fee - £50 for a half page in the catalogue
£100 for a full page
£150 for two pages
£250 for three pages or more

Bicycles

10% to both the Buyer and the Seller (minimum £10 to both parties)
Entry fee - £10

Automobilia/Motobilia

15% to the Buyer (minimum £5), 10% to the Seller (minimum £5)
Entry fee - £5

Catalogue photography - £10 per Lot

Registration Numbers

10% to both the Buyer and the Seller (minimum £50 to both parties)
Entry fee - £50

Total amount due means the Hammer Price in respect of the Lot sold plus the Buyer's commission and additional charges and expenses due from a defaulting Buyer under these Conditions plus VAT chargeable on any of them expressed in £ sterling.

Usual Charges means the total of the Commissions, Entry Fees and any other reasonable costs and expenses plus VAT payable thereon.

VAT means UK Value Added Tax at the prevailing rate from time to time.

Vehicles includes, where appropriate, incomplete vehicles.

CONDITIONS MAINLY CONCERNING SELLERS AND CONSIGNORS

1.1 An Entry Form in respect of each Lot must be completed fully and accurately, with an honest description of the Lot, signed and dated by the Seller and accompanied by the Entry Fee, when the Lot is entered. The Auctioneer may at any time ratify an incomplete form.

1.2 Any documentation pertaining to the Lot must be sent with the Entry Form to the Auctioneer's office, or in any event delivered with the Lot to the Premises. The Contract between the Seller and the Auctioneer will be formed when the Auctioneer receives a signed Entry Form for the Lot, whether by hand, post, fax, email or by any other means, and whether or not the Entry Fee for that Lot has been paid, and whether or not the Form has been signed by the Auctioneer.

1.3 All relevant matters pertaining to the Lot such as a financial encumbrance, serious accident damage or other factors affecting value which are known to the Seller must be stated on the Entry Form. If a sale is lost because of the failure of the Seller to disclose to the Auctioneer all information which may reasonably be expected to affect the provenance, title, value or any other aspect of the Lot, the Auctioneer will charge and the Seller must pay the stated rates (both to Seller and Buyer) plus VAT.

2.1 The Auctioneer shall have absolute discretion whether or not to accept any Lot for sale and shall be entitled to select the auction place, date, catalogue placement and photographs for the Lot.

2.2 The Seller gives the Auctioneer full and absolute right to photograph and illustrate any Lot placed in its hands for sale, and to use such photographs and illustrations as are provided by the Seller at any time at its absolute discretion (whether or not in connection with the Sale), with indemnity against copyright infringement.

2.3 The Seller is wholly responsible for the factual accuracy of, and for any judgments or opinions expressed in, the catalogue description of each Lot entered by him, and for any error, misstatement or omission of information in that description. Whether the description has been prepared by the Auctioneer or the Seller, a copy of the typed text will be provided to the Seller within a reasonable time prior to the Auction, and unless the Seller reacts with comments or changes prior to the Auction, the Auctioneer may treat that description as accepted by the Seller.

3.1 The Seller warrants to the Auctioneer and to the Buyer either that he is the true owner of the Lot or that he is duly authorised to sell the Lot by the true owner, and is able to transfer or procure transfer of good and marketable title to the Lot free from a third party claims or encumbrances.

3.2 In the event of an unsettled hire purchase, finance agreement or any other charge or lien affecting the Lot, the Auctioneer reserves the right to settle the amount due of such charges not exceeding the Sale Proceeds and if the Sale Proceeds are less than the charges outstanding the Seller will be responsible for the settlement of the balance forthwith. There will be a charge of £75 plus VAT for this service.

3.3 Each Lot, in the condition as described on the Entry Form, and with all keys, spare or extra items and documents shall be delivered to the Premises at the expense of the Seller. The Seller of a Lot not held by the Auctioneer at the Premises or under its control warrants and undertakes to the Auctioneer that the Lot will be made available and in a deliverable state at the time stated by the Auctioneer.

3.4 The Seller shall indemnify both the Auctioneer, its Employees and Agents, and the Buyer separately, against all payments, costs, expenses, demands, or any loss or damage whatsoever and wheresoever incurred or suffered by any of them in respect of any breach of these Conditions on the part of the Seller.

4.1 The Seller shall be entitled, prior to the sale to place a Reserve on any Lot, this being the minimum Hammer Price at which the Auctioneer is authorised to sell that Lot and to make its usual charges. A Reserve once placed by the Seller shall not be changed without the consent of the Auctioneer.

4.2 The Auctioneer may, at its option, sell the Lot at a Hammer Price below the Reserve but in any such case the Sale Proceeds to which the Seller is entitled shall be the same as if the sale had been at Reserve.

4.3 Where no Reserve has been placed on the Lot the Auctioneer shall in no way be liable should the Lot be purchased for a price below the lowest estimated selling price. In any event, any written or oral estimate of likely selling price given by the Auctioneer is an expression of opinion only and may not be relied upon by the Seller nor give rise to any claim.

4.4 If a Reserve is placed by the Seller in a currency other than Pounds Sterling, such a Reserve shall be calculated and converted into Sterling at the spot rate of exchange quoted to the Auctioneer by the National Westminster Bank Plc at close of business on the last banking day prior to the date of the Sale. The certificate in writing of the Auctioneer as to such rate shall be conclusive.

4.5 Where a Reserve has been placed, only the Auctioneer may bid on that Lot on behalf of the Seller. Should the Seller buy in his own Lot, the Seller must pay to the Auctioneer its stated rates (both Seller and Buyer) before the Lot is removed.

5.1 The Seller may by notice to the Auctioneer withdraw the Lot from the Auction. If the Seller does so he shall be liable to pay the Auctioneer the stated rate of the Seller's and Buyer's commission calculated on the estimated value of the Lot that the Auctioneer would have received had the Lot been sold for the estimated value. For the purposes of this clause the estimated value shall be the higher of:-

(a) the Seller's estimate of value as previously notified to the Auctioneer or if more than one figure the highest figure or if none;

(b) the value estimated in the catalogue or if more than one figure is given the highest figure, or if none.

(c) the Auctioneer's reasonable estimate of its value;

(d) plus VAT on such fee in either case and expenses;

5.2 In the event that the Seller withdraws the Lot from the Auction the Seller shall arrange for the collection/removal of the Lot at his own expense within 2 working days after the date of withdrawal provided that the Seller may not collect the Lot unless or until any withdrawal fee payable under Conditions 5.1 shall have been paid in full and any storage charges have been met by the Seller.

6. The Seller authorises the Auctioneer to deduct from the Hammer Price commission at the Stated Rate subject to the relevant minimum commission for each Lot, plus Expenses and VAT on both. The Seller acknowledges the Auctioneer's right to charge and retain the Buyer's Premium also in accordance with Condition 14.

7. The Seller of a Lot which is a road going means of transport warrants and undertakes to the Auctioneer that, as at the date of the Sale, either:

(a) the Lot will be VAT paid in the EU and registered in the UK, will be lawfully usable on the public road, complying with the provisions of current Road Traffic Legislation and all relevant regulations made thereunder and any statutory modifications thereof, and there is or will be in force an MOT Certificate required in relation to such use; or (alternatively)

(b) the Seller has notified the Auctioneer that the Lot does not or will not meet these requirements, and cannot legally be used on the road.

8. The Seller hereby agrees to indemnify the Auctioneer, its Agents and Employees against any and all claims, liability or damage and all related costs and expenses arising out of the proper execution by the Auctioneer of their obligations to the Seller under these Conditions, and in particular against any liability or claim which may be incurred by the Auctioneer as a result of any defect in the Lot, whether proving dangerous to human life or health or otherwise giving rise to a claim against the Auctioneer, or as a result of any default by the Seller or any breach of any of the warranties or undertakings herein by the Seller.

9. Where any Lot fails to sell, the Auctioneer shall notify the Seller accordingly. The Seller shall make arrangements either for the Auctioneer to re-offer that Lot for sale, or forthwith to collect the Lot and to pay the Expenses. If such arrangements are not made:

(a) by 3pm on the day following the date of the Sale, the Seller shall be responsible for the costs of any removal, storage and other expenses related to that Lot;

(b) within 3 months after formal notification by the Auctioneer to the Seller, the Auctioneer shall have the right (pursuant to the Torts (Interference with Goods) Act 1977 or any legislation that re-enacts or replaces it) to sell the Lot by private treaty or at public auction without reserve and to deduct from the Hammer Price or price received any sum owing to the Auctioneer including (without limitation) removal, storage and insurance expenses, the Expenses of both auctions, Commission at the Stated Rate on the sale and all other reasonable expenses, before remitting the balance to the Seller; or if he cannot be traced, placing it in a bank account in the name of the Auctioneer on behalf of the Seller.

10.1 Where a Lot is sold, the Auctioneer shall pay the Sale Proceeds to the Seller 8 working days after the Auctioneer has received in cleared funds the Total Amount Due from the Buyer. Unless an alternative payment method has been agreed, the Auctioneer will effect payment by sending its cheque, drawn in favour of the Seller, by first class mail at the Seller's risk.

10.2 If before the Total Amount Due is paid by the Buyer (whether or not because the Auctioneer has given credit terms to the Buyer) the Auctioneer pays to the Seller an amount equal to the net Sale Proceeds, title in the Lot shall pass from the Seller to the Auctioneer.

10.3 In the case of overseas Sellers, the Sale Proceeds will be paid to the Seller either in Sterling or in such other currency available to the Auctioneer as may have been agreed in writing between the Seller and the Auctioneer before the date of the Sale. The Auctioneer shall calculate the rate of exchange for the Sale Proceeds by reference to the spot rate of exchange quoted by the National Westminster Bank Plc at close of business on the date of the Sale, whichever is more favourable to the auctioneer.

10.4 If the Auctioneer receives notice of any dispute related to a sold Lot before the Sale Proceeds have been remitted to the Seller, the Auctioneer may withhold payment from the Seller until it thinks fit or until the Dispute is resolved, whichever is earlier. 10.5 The Auctioneer retains the right to withhold partial or total payment for any Lot if items committed to the Sale by the Seller and sold as part of the Lot, including any relevant documents, have not been delivered by the Seller.

11.1 If the Buyer fails to pay the Auctioneer the total Amount Due within 21 days after the Sale, the Auctioneer will notify the Seller and take the Seller's instructions as to the appropriate course of action. So far as in the Auctioneer's opinion it is practicable, the Auctioneer will at the Seller's expense assist the Seller to recover the Total Amount Due from the Buyer, but the Auctioneer shall be under no obligation to institute proceedings in its own name.

11.2 In circumstances outside the Auctioneer's control do not permit the Auctioneer to take instructions from the Seller, the Seller hereby authorises the Auctioneer, at the Seller's expense, to agree special terms for payment of the total Amount Due; to remove, store and insure the Lot sold; to settle claims made against the Buyer or the Seller on such terms as the Auctioneer shall in its absolute discretion think fit, to take such steps as are necessary to collect the monies due by the Buyer to the Seller; and if necessary to rescind the sale and refund money to the Buyer.

CONDITIONS MAINLY CONCERNING THE BUYER

12.1 Any motor vehicle is sold as a collector's item and not as a means of transport. Buyers are specifically warned that any vehicle sold as such may well have had parts replaced and paint renewed or be made up of parts from other vehicles the condition of which may be difficult to establish. The Auctioneer has to rely on information as to the date, condition and authenticity provided by the Seller and does not provide its own description, and does not and cannot undertake its own inspection of vehicles or other Lot and it is the responsibility of the Buyer to ensure that the Lot conforms to the description in the catalogue.

12.2 The Buyer shall be the person making the highest bid at or over Reserve (if any) that is accepted by the Auctioneer, and the Contract shall be concluded at the fall of the hammer. The Auctioneer shall have the absolute discretion to settle any dispute related to bidding at the Sale. All sales are deemed not to be sales in the course of a business, unless notified to the contrary.

12.3 Every bidder shall be deemed to act as a principal unless the Auctioneer has, prior to the auction date, acknowledged (either by acceptance of the Bidder's Registration Form which discloses the true principal, or otherwise in writing) that the bidder is acting as agent on behalf of a disclosed principal.

12.4 The Auctioneer may in its absolute discretion refuse to accept any bid, advance the bidding as it may decide, withdraw or divide any Lot, combine any two or more Lots, and in the case of dispute may put up any Lot for auction again.

12.5 A prospective bidder should register his intention to bid for a Lot by completing fully and signing a Bidder's Registration Form prior to executing his bid. If this has not been completed before the fall of the hammer, the Buyer shall forthwith complete the Bidder's Registration Form. The Bidder shall also provide photographic identification. Failure to do so shall not invalidate the sale, unless the Auctioneer, in its absolute discretion, so decides.

12.6 Any bid which fails to reach the Reserve may be submitted by the Auctioneer to the Seller and if the Seller accepts that bid, the Lot will be deemed to have been sold to the Buyer at the sum bid at the fall of the hammer and the normal Terms and Conditions will apply to that sale.

13.1 Where a Lot is illustrated by a photograph, in the case of a vehicle with a registration number visible, that number will not be transferred with the vehicle to the Buyer unless the registration particulars appear in the written part of the description and the transfer has been authorised by the Seller. If the vehicle is sold to the Buyer before the formalities of the allocation of a different registration number to that vehicle are completed with the DVLA, the Buyer accepts that he will take all steps necessary to co-operate with either the Seller or the Auctioneer to have the number re-transferred to the Seller or as may be, and will take no steps to register the vehicle with the number in his name.

13.2 Whilst the interests of prospective Buyers are best served by personal attendance at the Sale, the Auctioneers will if so instructed execute bids on their behalf. Neither the Auctioneer nor its Employees or Agents will be responsible for any error or default in doing so or in failing altogether to do so. Where the Auctioneer executes bids on behalf of an absent bidder, each Lot will be bought as cheaply as is allowed by other bids and any relevant Reserve.

14. The Buyer shall pay to the Auctioneer in respect of each Lot the Buyer's Commission calculated on the Hammer Price at the stated rates as set out above.

15. Where a Lot is described in the Catalogue or announced at the time of Sale as being subject to VAT on import, VAT will be payable in addition to the Hammer Price (which VAT may or may not be refundable by HM Customs & Excise on proof of export).

16.1 Upon the sale of a Lot, the Buyer shall:

16.2 Unless he has already done so, complete a Bidder's Registration Form as in Condition 12.5 above;

16.3 Pay to the Auctioneer the total amount due, at latest by midday on the day after the Sale, notwithstanding that where the Buyer wishes to exceed the Lot, an export licence may be required which must be obtained by the Buyer at his own cost;

16.4 Accept that any payments received by the Auctioneer from a Buyer may be applied by the Auctioneer towards any sums owing from that Buyer to the Auctioneer on any account whatsoever, without regard to any directions of the Buyer or his agent, whether express or implied.

17.1 Until the total amount due has been received by the Auctioneer:

(a) title in a Lot shall not pass to the Buyer but the risk shall;

(b) no Lot may be taken away by or on behalf of the Buyer.

17.2 The Buyer shall be responsible for any removal, storage and insurance charges and any other Expenses on any Lot not paid for and taken away by 3pm on the day following the day of the sale.

18.1 If a Buyer fails either to pay for or to take away any Lot, the Auctioneer may without further notice to the Buyer, at its discretion and without prejudice to any other rights or remedies it may have, exercise one or more of the following rights or remedies, as may be relevant, in relation to any and all remedies for non-payment that the Auctioneer may choose to exercise. The Buyer will pay to the Auctioneer all legal and other costs borne by it on a full indemnity basis.

18.2 To issue proceedings against the Buyer for payment of the total amount due and/or for damages for breach of contract. If the Seller decides to sell the Lot elsewhere, the Auctioneer may proceed against the Buyer for the Commission which it would have earned both from the Seller and the Buyer together with VAT on both and the Buyer paid for the Lot in accordance with the relevant Conditions.

18.3 To rescind the sale of that or any other Lots sold to the same Buyer at this or any other Sale, in respect of which title has not passed.

18.4 To resell the Lot or cause it to be resold by public or private sale, such that any deficiency in the total amount due resulting from such resale (after giving credit for any payment) together with the full costs incurred in connection with the Lots shall be paid to the Auctioneer by the Buyer; any surplus in excess of the Sale Proceeds of that resale shall belong to the Seller.

18.5 To store the Lot at the sole expense of the Buyer and to release the Lot only after payment in full of the total amount due, together with the accrued cost of the removal, storage and insurance and all other expenses incurred in connection with the Lot.

18.6 To retain that or any other Lot sold to the Buyer at the same or any other auction and to release the same only after payment of the total amount due.

18.7 To apply by way of set-off any Sale Proceeds of any Lot then due or at any time thereafter becoming due to the Buyer towards settlement of the total amount due and expenses and the Auctioneer shall be entitled to a lien on any property of the Buyer which is in the Auctioneer's possession for any purpose.

18.8 To reject or ignore any bids made by or on behalf of the defaulting Buyer at any future sales or insist upon a cash deposit before accepting any bids in future.

19.1 All Lots are offered as seen with all faults and defects without any guarantee or warranty attaching thereto as to condition, roadworthiness or otherwise and with all faults and defects whether apparent upon examination or not.

19.2 In any event, neither the Seller nor the Auctioneer shall be liable for any indirect or consequential loss whatsoever, and the maximum liability of the Auctioneer together with its Employees and Agents, in the event of any claim against them arising from the sale of any Lot shall be limited to the Hammer Price plus Buyer's Premium in respect of that Lot.

GENERAL CONDITIONS

20. The Auctioneer in all respects acts and will be treated as agent for the Seller (except where the Auctioneer is expressly stated to be selling as principal), and is not responsible for any default by the Seller or the Buyer to the other party.

21. The Auctioneer shall have the right, at its sole discretion, without assigning any reason, to refuse any person admission to its Premises or attendance at any of its Sales, or to view any Lot.

22. Any notice by the Auctioneer to a Seller, consignor, prospective bidder or Buyer may be given by hand delivery, by first class mail or by airmail, or by fax or e-mail; and if so given shall be deemed (unless shown to have been received earlier) to have been duly received by the addressee 36 hours after posting in the case of first class mail or airmail and 6 hours after transmission in the case of fax or email. In all cases it shall be sufficient for such notice to be delivered to the last known address of the recipient.

23. The copyright in all written matter and illustrations related to Lots shall remain at all times the absolute property of the Auctioneer, and any person wishing to use such materials, or any part of them, shall require the prior written consent of the Auctioneer.

24. If any Condition or part of a condition in these Terms shall be held to be invalid or unenforceable, the validity or enforceability of the remaining Conditions will not thereby be affected.

25. These Conditions shall be governed by and construed in accordance with English Law. All transactions to which these Conditions apply and all matters connected therewith shall also be governed by English Law. Each of the Auctioneer, the Seller, the Buyer and any bidder hereby submits to non-exclusive jurisdiction of the courts of England and Wales.