

Special Conditions of Sale - Classic Vehicles

GENERAL

The following conditions together with such other terms, conditions and notices as may be set out in any relevant catalogue apply to all sales by Brightwells at auction or to any retail sale. It is the intention of Brightwells that all terms between it and the Seller and the Buyer are contained in the Conditions. No alteration to the Conditions will be binding unless accepted by Brightwells in writing. The Conditions are subject to amendment by Brightwells provided it is reasonable for it to do so by the posting of notices or by oral announcement made by the Auctioneer prior to or during the sale. Nothing in the Conditions shall affect the statutory rights of a consumer.

1. Definitions

In these Conditions:

- 1.1 "Auction" means the auction sale in respect of which a Lot is consigned for sale
- 1.2 "Auctioneer" means the representative of Brightwells conducting the Auction
- 1.3 "Brightwells" means Brightwells Limited
- 1.4 "Buyer" means the person to whom a Lot is knocked down by the Auctioneer
- 1.5 "Buy It Now" means a Motor Vehicle sold by Brightwells on the Seller's behalf having a fixed price and sold in accordance with clause 12.2
- 1.6 "Catalogue" includes any advertisement, brochure, late entry list, estimate, price list or other publication
- 1.7 "Commission" means the percentage of the Hammer Price as agreed with the Seller
- 1.8 "Expenses" in relation to the sale of any Lot means Brightwells charges and expenses for insurance, storage, illustrations, cataloguing costs, special advertising, packing, freight and any ? Published Charges of that Lot and any VAT thereon and any Encumbrance
- 1.9 "Encumbrance" means any encumbrance or security interest of any kind whatsoever including without limitation a mortgage, charge, pledge, lien, hypothecation, restriction, right to acquire, right or pre-emption, option, conversion right, third party right or interest, right of set-off or counterclaim, equity, trust arrangement or any other type of preferential agreement (such as a retention of title arrangement) having similar effect or any other rights exercisable by or claims by third parties
- 1.10 "Hammer Price" means the price in pounds sterling which a Lot is knocked down by the Auctioneer
- 1.11 "Lot" means any item(s) consigned with the view to its or their sale at auction
- 1.12 "Motor Vehicle" means any item included or proposed to be included in a sale of motor vehicles
- 1.13 "Premium" means the percentage of the Hammer Price together with VAT thereon in accordance with the current charges displayed at the auction house.
- 1.14 "Provisionally Sold" means the allocation by the Auction under Condition 12.1
- 1.15 "Published Charges" means such charges from time to time published by Brightwells
- 1.16 "Purchase Price" means the Hammer Price together with VAT thereon, the Premium and any additional charges or Expenses due from any Buyer under Condition 22
- 1.17 "Reserve" means the minimum Hammer Price agreed between Brightwells and the Seller at which a Lot may be sold
- 1.18 "Sale Proceeds" means the net amount due to the Seller being the Hammer Price less the Seller's commission, any VAT thereon, Expenses and any other amount due to Brightwells from the Seller
- 1.19 "Seller" means the person who offers the Lot for sale
- 1.20 "Seller's Commission" shall have the definition given in Condition 9
- 1.21 "VAT" means Value Added Tax applicable at the prevailing rate from time to time

2. Brightwells as Agent

Brightwells sells as agent for the Seller (except where it is expressly stated to be selling as principal) and is not liable for any act or default by the Seller or the Buyer.

3. Brightwells Discretion

- 3.1 Brightwells has the right at its sole discretion to refuse any bid, to divide any Lot, to combine two or more Lots, to withdraw any Lot and, in the case of dispute, to put any Lot up for auction again.
- 3.2 If Brightwells is notified about the Seller's alleged breach of any of the Conditions before it has remitted the Sale Proceeds to the Seller, it may at its sole discretion, withhold payment until that dispute is resolved. Brightwells may, however, deduct any sums that are due to it from the sum held.

4. Loss or Injury

Brightwells shall be under no liability for any injury, damage or loss sustained by any person while on Brightwells' premises (including any premises where a sale may be conducted or where a Lot, or a part of a Lot may be on view from time to time) except for death or personal injury caused by the negligence of Brightwells or its employees and agents in the ordinary course of their duties to Brightwells.

5. Governing Law

All transactions to which the Conditions apply shall be governed by English Law and Brightwells, the Seller and the Buyer hereby submit to the exclusive jurisdiction of the English Courts.

6. Notices

Any notice by Brightwells to a Seller, Buyer or any other person or by the Seller, Buyer or any other person to Brightwells may be delivered by hand or sent by first class mail or airmail and shall be deemed to have been duly received:

If hand-delivered, at the time of delivery;

If sent by mail, two days after the date of posting if posted to an address within the country of posting and seven days after the date of posting if posted to an address within a country outside the country of posting. In proving service by delivery :-

By hand, it shall be necessary only to produce a receipt for the notice signed by or on behalf of the addressee; By post, it shall be necessary only to prove that the notice was contained in a pre-paid envelope which was duly addressed and posted first class. Brightwells do not accept service of any notice by facsimile or email.

SELLER'S CONDITIONS

7. Warranty by Seller

- 7.1 The Seller warrants to Brightwells in the terms of sub-paragraphs 7.1.1 to 7.1.5 below and to the Buyer in the terms of subparagraphs 7.1.1, 7.1.4 and 7.1.5 below that:
 - 7.1.1 The Seller is the owner of the Lot or is properly authorised to sell the Lot by the owner and is able to sell the Lot with full title guarantee free from all encumbrance;
 - 7.1.2 Unless Brightwells is notified in writing, the Motor Vehicle may lawfully be used on a road and complies with all statutory provisions and that there is in force any test certificate required by law in relation to such use or the Seller has notified Brightwells in writing that the Motor Vehicle cannot lawfully be used on a road;
 - 7.1.3 The Seller has notified Brightwells in writing of any material alterations to the Lot of which the Seller is aware and of any concerns expressed by third parties in relation to the authenticity, provenance, origin, age, condition or quality of the Lot and has provided Brightwells with all such information in the Seller's possession;
 - 7.1.4 The Seller has complied with all requirements relating to any export or import of the Lot and has notified Brightwells in writing of any failure to comply with such requirements by the Seller or any previous owner of the Lot;
 - 7.1.5 The Seller shall indemnify Brightwells and the Buyer against all losses, expenses or other costs which are caused by the Seller's breach of any obligation of the Seller under the Conditions;
- 7.2 The Seller warrants that the information about the Lot given to Brightwells, and statements made about it, are true. In the event of a Motor Vehicle which is discovered not to be in the state in which the Seller represented to Brightwells that it was, Brightwells may at its absolute discretion whether before or after the Lot has sold, carry out such work to the Motor Vehicle as is necessary to put into the state that the Seller represented it to be and shall deduct the cost of such work from any sums due to the Seller.

8. Reserves

- 8.1 The Seller may place a Reserve on any Lot prior to the Auction and once placed by the Seller may not be changed without the written consent of Brightwells. All Lots will be sold without Reserve unless a Reserve has been agreed by Brightwells in writing.
- 8.2 Where a Reserve has been agreed, only Brightwells may bid on behalf of the Seller. If the Seller makes such bid, then the Auctioneer may knock the Lot down to the Seller without observing any Reserve and the Seller shall pay to Brightwells the Buyer's Premium in addition to the Seller's Commission and Expenses.
- 8.3 Where a Reserve is agreed but not attained the Auctioneer may allocate the Lot as being Provisionally Sold and clause 12.1 shall operate
- 8.4 Where no Reserve has been placed, the Seller may bid either personally or through the agency of any one person.
- 8.5 If no Reserve has been placed on a Lot, Brightwells shall in no way be held liable should the Lot be purchased for a price below any lowest estimated selling price of the Lot given in any Catalogue.

9. Commission and Expenses

- 9.1 Brightwells shall be entitled to deduct from the Hammer Price and retain the Commission plus VAT and Expenses and any other sums due from the Seller to Brightwells.
- 9.2 The Seller acknowledges Brightwells right to retain the Premium payable by the Buyer in accordance with Condition 18.

10. Photography and Illustrations

The Seller permits Brightwells without payment to photograph and make illustrations of any Lot and to use at its discretion any photograph or illustration of or in respect of a Lot supplied by the Seller, whether or not in conjunction with the Auction. The copyright in all photographs taken and illustrations made of any Lot by or on behalf of Brightwells shall be the absolute property of Brightwells.

11. Brightwells' Estimates and Descriptions

- 11.1 Brightwells make no warranty or representation as to the anticipated or likely selling price of any Lot. Any estimate given by Brightwells, whether written or oral and whether or not printed in any Catalogue, as to the estimated selling price of any Lot is a statement of opinion only and may be subject to revision from time to time at Brightwells' sole discretion and should not be relied upon as an indication of the actual selling price. The vendor shall not be allowed to set the reserve above the lower estimate published in the catalogue, without the permission of Brightwells and the announcement of a revised estimate to suit this condition at the time of sale.
- 11.2 Brightwells shall not be liable to the Seller for any error or mis-statement in or omission from the description of any Lot in any Catalogue where:
- 11.2.1 Brightwells have been provided with such description by the Seller or any person on his behalf; or
- 11.2.2 Brightwells have provided the Seller with a copy of such description prior to publication of the Catalogue and neither the Seller nor any person on his behalf have notified Brightwells in writing within 7 days of any error or mis-statement in or omission from the description.
- 11.3 Brightwells has no duty to the Seller to investigate the accuracy of the description of any Lot provided by or on behalf of the Seller.
- 11.4 For vehicles offered for sale on behalf of the UK MOD as a surplus Military asset: the prospective buyer must familiarise themselves of its roadworthy condition (SOLD AS SEEN) and ensure that its continued use complies with up to date highways regulations; previously MOD granted crown exemptions are not transferable and its continued use will be subject to the appropriate approval; the absence of any official approval may make it illegal to be operate on public roads; the vehicle may need alteration or modification to make it lawful for civilian use.

12. Unsold Lots: Provisional Sales and Buy It Now

- 12.1 Where the Lot has not reached its Reserve and the Auctioneer in his absolute discretion has allocated a Lot as Provisionally Sold to the highest bidder, Brightwells shall take steps to contact the Seller on the day of the Auction and agree with the highest bidder a price for the Lot and conclude a sale between the Seller and the highest bidder as agent for the Seller.
- 12.2 Where the Seller instructs Brightwells to sell the Lot for a fixed price, Brightwells shall allocate the Lot to its "Buy it Now" scheme and use its endeavours to sell the Lot on behalf of the Seller at the price sort by the Seller together with Premium thereon and the Buyer's attention is specifically drawn to the terms contained in the "Buy It Now" Catalogue.

- 12.3 Any sale by private treaty shall be subject to the Conditions or to commission and expenses as if it had been sold by Auction.

13. Insurance

- 13.1 The Lot shall at all times remain at the risk of the Seller until ownership of the Lot passes from the Seller under these Conditions.
- 13.2 Brightwells will not be responsible for any damage to or the loss or the destruction of a Lot unless caused by the negligence of Brightwells, its employees or agents in the ordinary course of their duties to Brightwells and the Seller will indemnify Brightwells against all claims and proceedings brought against Brightwells in respect of any loss or damage to the Lot.
- 13.3 Brightwells will not be liable for any injury, loss or damage caused by any Lot unless caused by the negligence of Brightwells, its employees or agents in the ordinary course of their duties to Brightwells or by the Seller who will indemnify Brightwells against all claims and proceedings brought against Brightwells in respect of such injury, loss or damage.

14. Payment of Sale Proceeds

- 14.1 Where the Lot is not subject to any Encumbrance Brightwells shall pay the Sale Proceeds to the Seller not later than 28 days after the Auction providing that the Purchase Price has been received in full by Brightwells, but where the Lot is subject to any Encumbrance Brightwells shall discharge such of the Encumbrance from the Sale Proceeds and shall pay the net Sale Proceeds (if any) to the Seller not later than 14 days from the date on which Brightwells receives a certificate of discharge from the Encumbrancer.
- 14.2 Unless an alternative method of payment has been agreed by \ Brightwells in writing, payment shall be made by sending to the Seller a cheque drawn on Brightwells' bank account by first class post at the Seller's risk.
- 14.3 If the Purchase Price has not been received in full by Brightwells within the time specified in Condition 14.1 Brightwells will pay the Sale Proceeds to the Seller within five working days after the date on which the Purchase Price is received in clear funds from the Buyer.
- 14.4 Brightwells reserves the right not to remit the Sale Proceeds to the Seller unless the Seller has deposited with Brightwells the V5 or V5C registration document in the case of a UK registered vehicle or, in the case of a non-UK registered vehicle, the appropriate documents of title relevant and appropriate to the country of registration of the vehicle, and any other documentation relating to the vehicle in the Seller's possession or control which he agreed with Brightwells to supply.
- 14.5 If the Buyer fails to pay the Purchase Price within 14 days of the Auction, Brightwells will notify the Seller who may instruct Brightwells as to the appropriate course of action. Brightwells will endeavour to assist the Seller but Brightwells shall be under no obligation to institute proceedings in its own name.
- 14.6 In the absence of any written instructions from the Seller to Brightwells within 7 days of Brightwells having notified the Seller under 14.5 above then Brightwells shall be entitled to do any of the following:-
- 14.6.1 To agree terms for the payment of the Purchase Price;
- 14.6.2 To remove, store and insure the Lot;
- 14.6.3 To settle claims and/or proceedings made by or against the Buyer on such terms as Brightwells shall at its absolute discretion think fit;
- 14.6.4 To take such steps as Brightwells shall at its absolute discretion consider necessary to collect the monies due from the Buyer;
- 14.6.5 Where appropriate to rescind the sale and refund any monies to the Buyer;
- 14.6.6 To offer the Lot for re-sale, by Auction or private treaty, with or without Reserve;
- 14.6.7 Where appropriate to rescind the contract with the Buyer and to purchase the Lot itself. If it does so, property in the Lot shall pass to Brightwells on its election and Brightwells shall remit the Purchase Price to the Seller within fourteen days of its election less the commission and Expenses or sums due to Brightwells which would have been payable had the contract not been rescinded;
- 14.6.8 To appoint a solicitor and/or other agent to pursue any of the courses of action referred to in sub-paragraphs 14.6.1 to 14.6.2 above and the Seller authorises Brightwells to take any of the courses referred to in this Condition, including the issue and prosecution of proceedings on the Seller's behalf.
- 14.7 Any monies recovered by and paid to Brightwells in consequence of Brightwells taking one or more of the steps referred to in Condition 14.6 shall be applied to the payment of:
- 14.7.1 Legal or other costs incurred by Brightwells in connection with such steps; and then
- 14.7.2 Expenses; and then

- 14.7.3 The Buyer's Premium and the Seller's Commission on the sale of the Lot;
- 14.7.4 Any balance remaining shall be paid by Brightwells to the Seller (or, if appropriate, the Buyer). In the event that there shall be a shortfall, any such shall be made good by the Seller to Brightwells on demand.
- 14.8. In the event that within 7 days of receipt of the notice referred to in Condition 14.6 the Seller informs Brightwells that he wishes to take re-delivery of the Lot, he shall be entitled to do so but only upon prior payment of all commissions earned by Brightwells on the sale of the Lot together with Expenses and all legal and other costs incurred by Brightwells so as to provide Brightwells with a full indemnity.
- 14.9. Brightwells may withhold any monies due to the Seller and rescind the Sale if, in Brightwells opinion, the Buyer is not believed to be a bona fide Buyer and incapable of making a contract i.e. not being sound of mind, in collusion with the Seller or under the influence of drugs or drink etc.

15. Withdrawal Fees

- 15.1 The Seller may by notice in writing to Brightwells withdraw the Lot from the Auction. If the Seller does so prior to the publication of the Catalogue, he shall be liable to pay Brightwells 7.5% or an amount equal to the commission Brightwells would have received from the Seller if less than 7.5% of the estimated value of the Lot. The estimated value shall be the higher of:
- 15.1.1 The Seller's estimate of value as previously notified to Brightwells or, if more than one figure, the highest figure or, if none;
- 15.1.2 The value estimated in the Catalogue, or if more than one figure is given, the highest figure;
- 15.1.3 Plus in either case VAT on such fee and expenses.
- 15.2 A fee equal to the commission referred to in 15.1 above plus an amount equivalent to the Buyer's commission and VAT and Expenses will be charged if the Lot is withdrawn after a Catalogue referring to the Lot shall have been published.
- 15.3. In the event that the Seller withdraws the Lot from the Auction, the Seller shall arrange for collection and removal of the Lot at his own expense within two working days after the date of withdrawal provided that the Seller may not collect the Lot unless and until any withdrawal fee payable under Conditions 15.1 and 15.2 shall have been paid in full.
- 15.4. If Brightwells has reasonable cause for believing that either the Seller is in breach of any one or more of the warranties set out in Condition 7 or Brightwells and/or the Seller may be restrained by Order of any Court or other competent authority from selling the Lot, Brightwells may by giving notice in writing to the Seller decline to sell the Lot and Conditions 15.1, 15.2 and above shall apply as if the notice from Brightwells were a withdrawal of the Lot by the Seller.
- 15.3
- 15.5. The Seller shall reimburse to Brightwells any legal or other costs reasonably incurred by it in investigating any claim concerning the ownership of a Lot and/or the Seller's right to sell the Lot, the accuracy of the description of the Lot contained in the Catalogue or in defending any claim relating thereto and Brightwells shall be entitled to withhold the amount of such costs from any payment due to be made to the Seller in accordance with Condition 14.
- 15.6. Brightwells may set off any monies due to it from the Seller, including without limitation withdrawal fees and any costs incurred by it under Condition 15 against any sale proceeds due to the Seller in respect of the same or any other Lot deposited with Brightwells by the Seller.

16. Removal and Storage

- 16.1. The Seller shall arrange for the removal of any unsold lot by noon the third day following the Auction or by such other time as agreed by Brightwells.
- 16.2. Failure to remove any unsold lot pursuant to Condition 16.1 above will entitle Brightwells to charge the Seller any removal, storage, insurance and other expenses in accordance with the Published Charges.
- 16.3. If within 28 days after the Auction the Seller fails to give instructions to Brightwells regarding the disposal of the lot, Brightwells shall have the exclusive right to sell the Lot by private treaty and to deduct from the sale price any sums owing to Brightwells or by Auction without reserve and to deduct from the Hammer Price any sums owing to Brightwells.

THE BUYER'S CONDITIONS

17. The Buyer

- 17.1. The Buyer shall be the highest bidder at the Hammer Price. Any dispute as to any bid shall be settled by the Auctioneer at his absolute discretion.
- 17.2 Where the Auctioneer declares a lot to be "Provisionally Sold" the Buyer makes an irrevocable invitation to treat with the Seller and in such circumstances the Seller accepts the bid made by the Buyer the contract of sale is made on the Seller's acceptance of the Buyer's bid, otherwise Brightwells shall take steps to contact the Seller on the day of the Auction and agree with the highest bidder a price for the Lot and conclude a sale between the Seller and the highest bidder as agent for the Seller.
- 17.3. Every bidder shall be deemed to act as principal unless prior to the commencement of the Auction there is a written acceptance by Brightwells that a bidder acts as agent on behalf of the named principal.
- 17.4. No person shall be entitled to bid at the Auction without first having completed and delivered to Brightwells a bidder's registration form together with such deposit as may from time to time be required by Brightwells details of which are published on the day of the Auction.

18. Premium

The Buyer shall pay Brightwells the Premium and the Buyer acknowledges that Brightwells may also receive the Seller's Commission due to Brightwells under Condition 9.

19. Value Added Tax

- 19.1 VAT payable by the Buyer on the Hammer Price may be refundable by H.M. Customs and Excise on proof of export Brightwells makes no warranties in this regard.
- 19.2 Lots marked [S] are sold subject to VAT on the Hammer Price and where the Lot is so marked the Premium will be calculated as a percentage of the Hammer Price plus VAT.

20. Payment

- 20.1 Save where the Auctioneer declares a Lot "Provisionally Sold", a contract of sale is made between the Seller and the Buyer on the acceptance of a bid by the fall of the Auctioneer's hammer. Brightwells is not a party to the contract of sale and has no liability for any act or default by the Seller or the Buyer.
- 20.2 Immediately a Lot is sold, the Buyer shall:-
- 20.2.1 Give to Brightwells his name and address and, if so requested, proof of identity if he has not already done so; and
- 20.2.2 Pay to Brightwells the Purchase Price unless credit terms have been agreed with Brightwells in writing before the Auction.
- 20.3 Full payment for all Lots must be made to Brightwells in pounds sterling or the currency in which the sale was conducted by means of bank transfer, cash, debit card, cheque or bankers draft. Where the Buyer wishes to pay by Bank Transfer, the Lot will not be released until the payment has been received into Brightwells' account. Cash payments are subject to a limit of £7,500 (EUR9,999) for all purchases made in this auction. Total cash payments to Brightwells Limited from any customer cannot exceed a Sterling equivalent of EUR9,999 in any single or series of related or linked transactions within a 90 day rolling period. Where the Buyer wishes to pay by cheque or bankers draft and Brightwells has agreed that the Buyer may do so, the Lot will not be released until the cheque / bankers draft has been cleared. Where the Buyer wishes to pay by cash, a fee shall be payable as detailed in the Published Charges.
- 20.4. No Lot may be collected until the Purchase Price has been received by Brightwells and payments by a Buyer to Brightwells may be applied by Brightwells towards any sums due from that Buyer to Brightwells on any account whatsoever notwithstanding any directions to the contrary by the Buyer or his agent whether express or implied.
- 20.5. The ownership of the Lot will pass to the Buyer only when the Purchase Price in cleared funds has been received by Brightwells.
- 20.6 Immediately a Lot is sold the risk shall pass to the Buyer notwithstanding that possession will not be given and ownership will not pass to the Buyer before payment of the Purchase Price and Brightwells will not be responsible for any damage to or the loss or the destruction of the Lot or any injury, loss or damage caused by the Lot unless caused by the negligence of Brightwells, its employees or agents in the ordinary course of their duties to Brightwells and the Buyer will indemnify Brightwells against all claims and proceedings brought against Brightwells in respect of any loss or damage to the Lot or injury, loss or damage caused by it.

21. Removal of Purchases

- 21.1 The Buyer shall, at his own expense, remove the Lot purchased by noon the third day following the Auction or by such other time as agreed by Brightwells, but not before payment in full to

Brightwells of the Purchase Price whether in respect of this or any other Lot.

- 21.2. The Buyer shall be responsible for all removals, storage, insurance and other charges on any Lot not taken away at the day and time specified in Condition 21.1 above.

22. Responsibility for Lots Purchased

- 22.1 The Buyer will be responsible for loss or damages to a Lot purchased by him from the fall of the hammer and neither Brightwells nor its employees or agents shall be responsible for any loss or damage unless caused by the negligence of Brightwells, its employees or agents in the ordinary course of their duties to Brightwells whilst the Lot is in Brightwells custody or in its control.
- 22.2 It shall be the responsibility of the Buyer to ensure that any Motor Vehicle purchased at Auction complies with the appropriate statute or regulation for driving, using or transporting it and for ensuring that any necessary test certificate is in force.
- 22.3 The Buyer shall be responsible for all removals, storage, insurance and other charges on any Lot not taken away at the day and time specified in Condition 21.1 above.

23. Non-payment or Failure to Collect

- 23.1 If the Purchase Price is not paid in full in accordance with the above conditions Brightwells, as the agent of the Seller shall at its absolute discretion and without prejudice to any other rights it may have, be entitled to exercise one or more of the following remedies:
- 23.1.1 To charge interest at a rate not exceeding 1.75% per month on so much of the total amount due as remains unpaid after the date and time referred to in condition 21.1;
- 23.1.2 To remove, store (either at Brightwells' premises or elsewhere) and insure the Lot at the expense of the defaulting Buyer;
- 23.1.3 To retain that or any Lot sold to the same Buyer at the same or any other auction and to release it only after payment of the total amount due;
- 23.1.4 To reject or disregard any bid or bids made by or on behalf of the defaulting Buyer at any future auction or to require payment of a deposit before any future bid made by or on behalf of that Buyer;
- 23.1.5 To apply any money due or to become due to the defaulting Buyer in or towards settlement of the total amount due and to exercise a lien on any property of the defaulting Buyer which is in Brightwells' possession for any purpose.
- 23.2 If the Buyer fails to make payment within 7 days after the date and time referred to in condition 21.1, Brightwells shall at its absolute discretion and without prejudice to any other rights it may have, be entitled to exercise one or more of the following additional remedies:
- 23.2.1 To proceed against the Buyer for damages for breach of contract;
- 23.2.2 To cancel the sale of that or any other Lot sold to the defaulting Buyer at the same or any other auction notwithstanding the total amount due in respect of such other Lot shall have been paid;
- 23.2.3 To re-sell the Lot or cause it to be re sold by public auction or private sale, and, if this results in a lower price being obtained, the defaulting Buyer shall pay to Brightwells any deficiency, together with re-sale costs and costs incurred in connection with the Buyer's failure to make payment and any surplus shall belong to the Seller.
- 23.3 If the Lot is not taken away on the date and time referred to in condition 21.1, whether or not the purchase price has been paid, Brightwells shall remove, store (either at Brightwells' premises or elsewhere) and insure the Lot at the expense of the defaulting Buyer and only release the Lot after payment of the total amount due.
- 23.4 If the Buyer has paid for and fails to collect the Lot within 14 days after the date and time referred to in condition 21.1, Brightwells shall at its absolute discretion and without prejudice to any other rights it may have, be entitled to exercise one or more of the following additional remedies:
- 23.4.1 To cancel the sale of the Lot;
- 23.4.2 To re-sell the Lot or cause it to be re-sold by public auction or private sale and to set off the total amount due in respect of that Lot against the sale proceeds and any surplus shall belong to the defaulting Buyer.

24. Liability of Brightwells and the Seller

- 24.1. Any Motor Vehicle is sold as a collector's item and not as a means of transport. Buyers are specifically warned that any Motor 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. Brightwells has to rely on information as to date, condition and authenticity provided by Sellers and does not, and cannot, undertake its own inspection of vehicles or other Lots to establish whether the vehicle or other Lot conforms to the description in the catalogue. It is the responsibility of the Buyer to carry out such inspection as he thinks necessary.
- 24.2. No warranty is given by Brightwells as to the accuracy of the description of any Lot in any Catalogue or any announcement made by the Auctioneer or as to the age, authenticity, suitability, provenance, attribution, origin, condition, fitness for purpose, merchantable or satisfactory quality of any Lot or roadworthiness of any Motor Vehicle. For vehicles offered for sale on behalf of the UK MOD as a surplus Military asset: The prospective buyer must familiarise themselves of its roadworthy condition (SOLD AS SEEN) and ensure that its continued use complies with up to date highways regulations; Previously MOD granted crown exemptions are not transferable and its continued use will be subject to the appropriate approval; The absence of any official approval may make it illegal to be operate on public roads; The vehicle may need alteration or modification to make it lawful for civilian use.24.3. In bidding for any Lot, the Buyer acknowledges that he does not rely on any representation made to him by Brightwells, its employees or agents unless such representation has been confirmed by Brightwells in writing prior to the Auction.
- 24.4. In any event :-
- 24.4.1 Brightwells shall only be liable for losses that are foreseeable; and
- 24.4.2 The maximum liability of Brightwells, its employees or agents to a Buyer shall be limited to the Hammer Price of the relevant Lot and the Buyer's Premium (if paid by the Buyer) and the maximum liability to the Seller shall be the Sale Proceeds of the Lot.

25. Absentee Bids

- 25.1 Whilst the interest of prospective buyers are best served by attendance at the Auction, Brightwells will if so instructed execute bids on behalf of prospective bidders provided that Brightwells is in receipt of a minimum 10% of the highest estimate the day before the date of the Auction. Brightwells, its agents or employees shall not be responsible for any default relating to telephone, fax or other absentee bids including without limitation any telecommunications fault or failure.
- 25.2 The Buyer acknowledges the right of Brightwells to record the telephone bids.

MISCELLANEOUS

- 26.1. The benefit and burden of the Conditions may not be assigned by the Seller or the Buyer without Brightwells' prior agreement in writing.
- 26.2. If any Condition or any part of any Condition shall be held to be unenforceable or invalid such unenforceability or invalidity shall not affect the enforceability and validity of the remaining conditions or the remainder of the relevant condition.
- 26.3. The headings and numbering used in the Conditions are for convenience only and shall not affect their interpretation.
- 26.4. Reference to the male gender shall be deemed to be a reference to male or female as appropriate.
- 26.5. Any concession or latitude allowed by Brightwells shall not affect Brightwells' rights under or release the Seller to the Buyer from liability in respect of the Conditions.

December 2019

Online Auction Terms and Conditions

This document (together with the documents referred to in it) sets out the terms and conditions on which Brightwells Limited provides facilities for the placing of online bids ("Bids") for lots which are listed on our websites www.brightwells.com or www.brightwellslive.com ("Our Site") and which are being auctioned at one of the Brightwells auction centres.

Please read these terms and conditions carefully before placing any Bids through our site.

By logging in to use our site, you agree to be bound by these terms and conditions and you acknowledge that they override any terms and conditions which you purport to impose. Any Bids placed by you, and any contract for the purchase of a Lot made as a result, is made in accordance with and subject to these terms and conditions. These terms and conditions should be read in conjunction with Brightwells' 'General Conditions of Sale' and the relevant 'Special Conditions of Sale' that apply to the item that you are purchasing. A list of our various 'Special Conditions of Sale' is contained at the end of this document. The entirety of this document, our 'Conditions of Sale' and any 'Special Conditions of Sale' will apply to your interactions with Brightwells, any Bids placed through Brightwells online system, and any contracts for sale entered into as a result.

In the case of inconsistency between this document and the 'General Conditions of Sale' and/or the applicable 'Special Conditions of Sale' the provisions of this document will prevail. Where there is any inconsistency between any 'Special Conditions of Sale' and the 'General Conditions of Sale', the former will prevail.

For the purposes of this document, the relevant 'Special Conditions of Sale' are referred to as our 'Conditions of Sale'. You should print a copy of these terms and conditions for future reference.

Information About Us

- 1.1 www.brightwells.com or www.brightwellslive.com is a site operated by Brightwells Limited (we/us).
- 1.2 We are registered in England and Wales under company number 2052714 and our registered office address is Easters Court, Leominster, Herefordshire, HR6 0DE. This is also our main trading address.
- 1.3 Our VAT number is GB133 4722 89.

Service Availability

- 2.1 Your use of our site is subject at all times to our Terms of Website Use and our Privacy Policy. By logging into our site, you agree to be bound by and consent to our Terms of Website Use and our Privacy Policy.
- 2.2 We do not guarantee that your access to our site or that your placing of Bids will be uninterrupted, without delay, secure or error free. Our site is provided on an "as is" basis and we exclude all liability whatsoever arising out of or in connection with your inability to access our site, place Bids or win any auctions.

Your Status

- 3.1 By logging into our site and placing a Bid, you warrant that:
 - 3.1.1 You are the registered user of the username and password which was allocated to you on registration to use our site;
 - 3.1.2 You are placing a Bid on behalf of a business (be it a sole trader, partnership or limited company) acting in the course of its business;
 - 3.1.3 You are authorised to place Bids on behalf of the business and to legally bind that business;
 - 3.1.4 You are at least 18 years old; and
 - 3.1.5 You have read, and moreover agree to, these terms and conditions.

How the Contract Is Formed Between You and the Seller

- 4.1 Once you have placed a Bid, our online system will indicate whether it has been registered. We do not guarantee that any Bids placed online will be registered, and are not responsible for any failure of communication, whether from you to us or vice versa, as a result of IT problems/failure or factors outside of our control.
- 4.2 Any Bid placed through the online system constitutes an offer to the Auctioneer (as agent of the third party seller ("the Seller")) to buy a Lot.
- 4.3 Any Bid remains open for acceptance by the Auctioneer until the conclusion of the auction and cannot be withdrawn.
- 4.4 If your Bid is accepted as the highest bid by the Auctioneer and the Reserve (if any) has been met, the Auctioneer will accept your Bid on behalf of the Seller, thus concluding a contract between yourself and the Seller. Confirmation of such acceptance ("Bid Acceptance") will be highlighted on the online screen.

- 4.5 If your Bid is accepted as the highest bid by the Auctioneer, but the Reserve has not been met (i.e. your Bid is lower than the Reserve) the Auctioneer may at his absolute discretion allocate the Lot as Provisionally Sold. You will be informed if the Lot has been allocated as Provisionally Sold by the online screen (for the avoidance of doubt, the online screen will make clear if you are the successful bidder).
- 4.6 Where a Lot is allocated as Provisionally Sold, your Bid will remain open for acceptance for a further 24 hours ("the Standing On Period") following the conclusion of the auction. During this period, the Bid may be accepted on behalf of the Seller by the Auctioneer or any other representative of Brightwells.
- 4.7 During the Standing On Period, we shall take steps to contact the Seller and to ascertain whether they are willing to accept the Bid notwithstanding that it does not meet the Reserve. Following confirmation from the Seller, we will notify you by email whether the Bid has been accepted or rejected by the Seller.
- 4.8 Your Bid will be deemed to have been rejected by the Seller if you are not given notice within the Standing On Period that it has been accepted.
- 4.9 Where you are notified within the Standing On Period that your Bid has been accepted, a contract for the sale of the Lot will be formed between you and the Seller.
- 4.10 If our system confirms your Bid has been accepted in accordance with condition 4.4 above, or if a contract is concluded under conditions 4.5 to 4.9 following a Provisional Sale, you will become the "Buyer" as defined by our 'Conditions of Sale'. The relevant provisions of the 'Conditions of Sale' will apply to the contract for sale between you and the Seller, as well as your obligations to us and vice versa.
- 4.11 Irrespective of whether a contract is concluded following Bid Acceptance under condition 4.4 or under conditions 4.5 to 4.9 following a Provisional Sale, you will be liable to make payment of the Online Auction Fee.

Delivery

- 5.1 You should note that it is your responsibility to arrange collection of Lots that you have bought. Brightwells may at its discretion offer delivery services in respect of Lots, but this will be subject to (i) availability; and (ii) any terms and conditions imposed by us and/or the relevant courier in respect of the delivery.
- 5.2 Where terms for delivery are agreed, you will be required to pay for delivery. Unless rates for delivery are individually agreed, delivery charges will be at the rates as advertised on Our Site from time to time.
- 5.3 For the avoidance of doubt, we do not accept any liability for loss of or damage to any items (including any consequential losses, costs or expenses arising there from) whilst the items are in the custody or control of any third party courier. You are reminded that property in any Lot passes on payment of the purchase price and that you assume all risk for loss/damage from that point.

Payment of Online Auction Fee

- 6.1 If you are successful in winning the relevant auction then, in addition to any charges, fees or purchase monies payable under our 'Conditions of Sale', you will be liable to pay a fee an Online Auction Fee.
- 6.2 The Online Auction Fee is advertised on Our Site from time to time. Please see the details on the "Auction Overview" section.
- 6.3 The Online Auction Fee becomes payable upon a contract for sale being concluded under (as relevant) condition 4.4 or 4.5 to 4.9 above.
- 6.4 The Online Auction Fee is due as the same time as you pay for the Vehicle as provided for by our 'Conditions of Sale'.
- 6.5 We reserve the right to change our Online Auction Fee from time to time. Any changes will be advertised on our website and will only apply to auctions that commence on the day after the change in Online Auction Fee was first advertised.

Our Liability and the Auctioneer's Liability

- 7.1 The Auctioneer's liability to you is as set out in our 'Conditions of Sale' and 'General Conditions of Sale'.
- 7.2 You accept that your purchase of any Lot or Lots is being made in accordance with our 'Conditions of Sale' and 'General Conditions of Sale'.
- 7.3 You acknowledge and confirm we have no liability or obligation whatsoever to you in respect of any representation or statement made by us on our site about the specification, colour or condition (together "details") of the Lots listed therein. All such details are provided for information purposes only. All Lots are available for inspection prior to the commencement of the auction and you should satisfy yourself as to the details of the relevant Lot prior to placing any Bids.

- 7.4 By placing Bids, you acknowledge and confirm you accept that the auction is being operated by the Auctioneer and that we accept no liability whatsoever for the actions or omissions of that Auctioneer.
- 7.5 Nothing in these terms and conditions limits in any way our liability for death or personal injury caused by our negligence or for fraud or fraudulent misrepresentation.

Written Communications

- 8.1 Applicable laws require that some of the information or communications we send to you should be in writing. When using our site, you accept that communication with us (and the Auctioneer) will be mainly electronic. We (and/or the Auctioneer) will contact you by email at the email address you provided when you registered with Our Site or by posting notices on Our Site.
- 8.2 For contractual purposes, you agree to electronic means of communication and you acknowledge that all contracts, notices, information and other communications that we provide to you electronically comply with any legal requirement that such communications be in writing.

Notices

- 8.3 All e-mail notices given by us (and the Auctioneer) to you will be sent to you at the email address you provided to us when registering to use our site.
- 8.4 Notice will be deemed received and properly served immediately when posted on our website or the following working day after the e-mail containing/giving such notice is sent.
- 8.5 In proving the service of any notice, it will be sufficient to prove, in the case of an email, that such e-mail was sent to the e-mail address specified by you when you registered to use our site, or in the case of notices posted on our site, by the production of a copy of the cached page showing the notice.

Waiver

- 9.1 If we fail, at any time, to insist upon strict performance of any of your obligations under any of these terms and conditions (or under our 'Conditions of Sale' or 'General Conditions of Sale'), or if we fail to exercise any of the rights or remedies to which we are entitled, this shall not constitute a waiver of such rights or remedies and shall not relieve you from compliance with such obligations.
- 9.2 A waiver by us of any particular default shall not constitute a waiver of any subsequent default.
- 9.3 No waiver by us of any of these terms and conditions shall be effective unless it is expressly stated to be a waiver and is communicated to you in writing in accordance with the clause "Written Communications" above.

Severability

- 10.1 If any of these terms and conditions is determined by any competent authority to be invalid, unlawful or unenforceable to any extent, such term, condition or provision will to that extent be severed from the remaining terms, conditions and provisions which will continue to be valid to the fullest extent permitted by law.

Entire Agreement

- 11.1 These terms and conditions and any document expressly referred to in them represent the entire agreement between us and, in the event of a contract of sale being entered, between you and the seller, in relation to the subject matter contemplated by these terms and conditions.
- 11.2 These terms and conditions and any document expressly referred to in them supersede any prior agreement, understanding or arrangement between us, whether oral or in writing.

Exclusion of Claims

- 12.1 You shall not have any claim for misrepresentation, either against us or the Seller, in respect of any false or untrue statement made by us, either acting as principal or as agent for the Seller.
- 12.2 The above exclusion shall not apply in the case of any false or untrue statement that was made fraudulently.
- 12.3 Liability for any claims arising from problems with service availability is excluded as per condition 2.2 above.

Our Right to Vary These Terms and Conditions

- 13.1 We have the right to revise and amend these terms and conditions from time to time.
- 13.2 These terms and conditions may be varied or amended either by the giving of notice by email, or by the posting of updated terms and conditions on Our Site.
- 13.3 You will be subject to our terms and conditions in force at the time that you log in to use Our Site.
- 13.4 Please note the date at the bottom of this document.

Law and Jurisdiction

- 14.1 Your use of our site and contracts for the purchase of Lots I entered into through our site and any dispute or claim arising out of or in connection with them or their subject matter or formation (including non-contractual disputes or claims) will be governed by English law.
- 14.2 Any dispute or claim arising out of or in connection with such contracts or their formation (including non-contractual disputes or claims) shall be subject to the exclusive jurisdiction of the courts of England and Wales.

Special Conditions of Sale

- 15.1 As set out above, specific classes of Lot are subject to particular 'Special Conditions of Sale' which apply in addition to the provisions of this document and our 'General Conditions of Sale'. Whilst the use of Our Site is primarily governed by the contents of this document, any contract for sale/purchase that you enter into through Our Site will be subject to the relevant 'Special Conditions of Sale' and our 'General Conditions of Sale' in addition.
- 15.2 The relevant 'Special Conditions of Sale' are as follows:
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|-----------------------|--|
| Class of Lot Relevant | 'Special Conditions of Sale' |
| Vehicles & Leisure | Special Conditions of Sale - Vehicles |
| Fine Art | Special Conditions of Sale - Fine Art |
| Plant & Machinery | Special Conditions of Sale - Plant & Machinery |
| Classic Cars | Special Conditions of Sale - Classic Vehicles |

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