

# SHANNONS AUCTIONS LIMITED

VIC:LMCT 9585 NSW:MD19550 QLD:LIC. NO:4505832

## ONLINE AND LIVE AUCTION TERMS AND CONDITIONS

Shannons Auctions Pty Limited ABN 83 099 665 497 (Shannons) conducts the online and in-person live Auctions subject to these Terms and Conditions. By participating in the Auction You acknowledge that You have read, understood and agree to be bound by these Terms and Conditions.

### 1. DEFINITIONS

In these Terms and Conditions unless the context otherwise requires or implies:

**Auctioneer** means Shannons or any person conducting the Auction on behalf of Shannons.

**Auction** means a sale or prospective sale by auction of a Lot.

**Bidder** means a person registered to bid and participate in the Auction in accordance with clause 2.

**Bidding Agent** means a Bidder who bids or intends to bid at the Auction as agent for a principal.

**Bid Extension** means an extension that occurs during an online Auction at the designated closing time on a Lot, where a Lot will be placed into an extension period (for example two (2) minutes) or multiple extensions until there is only one Bidder left bidding on a Lot.

**Business Day** means Monday to Friday.

**Business Hours** means 9:00am to 5:00pm on a Business Day.

**Buyer's Premium** means a fee equal to 5% (GST Inc) of the purchase price of vehicles, motorcycles and number plates and equal to 10% (GST Inc) of the purchase price of memorabilia lots, payable to Shannons by the purchaser on the final sale price of the Auction Lot.

**Lot** means any goods or items available for purchase at the Auction.

**Online Bidding System** means the online system used by the Auctioneer to conduct an Auction. Premises means any of the Shannons vehicle showrooms:

- MELBOURNE: 40 Corporate Drive, Heatherton, Victoria 3202 and

- SYDNEY: 22 Lambs Road, Artarmon, NSW 2064

- BRISBANE: 107 Fison Ave West, Eagle Farm, QLD 4009

**Vendor** means the owner of a Lot or person authorising the Auctioneer to sell the Lot on their behalf.

**You / Your** means a Bidder, Bidding Agent, Vendor or purchaser, or any person (other than the Auctioneer) participating in the Auction.

### 2. REGISTRATION OF BIDDERS

2.1 A person must be registered to bid in the Auction and cannot bid in the Auction unless they are a registered Bidder.

#### Online Auctions – Bidder Registration

2.2 To become a registered Bidder for online Auctions:

- a. You may apply to Shannons to become a Bidder to participate in the Auction by completing the online application form (**Online Application**).
- b. If You will be acting as a Bidding Agent, You must identify the principal (person You act on behalf of) when completing the Online Application.

2.3 Online Applications to become a Bidder close six (6) hours before the Auction ends.

#### Live Auctions – Bidder Registration

2.4 For live Auctions, You may wish to bid:

- a. in-person;
- b. via telephone;
- c. online; or
- d. absentee.

2.5 To become a registered Bidder for live Auctions, You must lodge a completed Bidder registration form (Form) in person with Shannons prior to Auction, or otherwise agreed. If You bid:

- a. in-person, You must complete the Form which is made available during public viewing times at the Auction venue;
- b. via telephone, absentee or online, You must submit your Form six (6) hours prior to Auction commencement.

#### For Online and Live Auctions

2.6 By submitting an Online Application or Form, You warrant to Shannons that all information provided by You to Shannons is complete and accurate.

2.7 Shannons may accept or reject an Online Application or Form in its absolute discretion by notice to You. If Shannons accepts the Online Application or Form, You become a Bidder.

2.8 By applying to become a Bidder, logging onto and using the Online Bidding System, or making a bid in the Auction, You irrevocably submit that You have read, understood and will comply with and agree to be bound by these Terms and Conditions.

2.9 If a Bidder fails to comply with these Terms and Conditions, the Bidder agrees to reimburse Shannons for any costs, fees, charges it suffers or incurs in connection with the Bidder's non-compliance.

### 3. ONLINE AUCTIONS ONLY - ONLINE BIDDING SYSTEM

3.1 You have access to the Online Bidding System for legitimate personal and commercial purposes, and to participate in the Auction.

3.2 Shannons does not warrant that the Online Bidding System will be available for use by You at all times or at any particular time, during and for the duration of any particular Auction or at all.

3.3 Shannons may limit, restrict or withdraw Your use of the Online Bidding System at any time without notice to you or explanation, acting reasonably.

3.4 If the Online Bidding System is interrupted (either generally or to a particular Bidder(s) or person(s)) for any reason during the Auction, Shannons may, but is not obliged to, declare the Auction void and recommence the Auction from the beginning.

3.5 Shannons is not responsible for any loss or damage You may suffer in connection with Your use of the Online Bidding System, including but not limited to, any loss or damage from errors or problems with the Online Bidding System caused by You, or Your inability to use the Online Bidding System.

3.6 Any cost associated with accessing the Online Bidding System is Your responsibility and dependent on the internet service provider used.

#### **4. AUCTIONEER**

- 4.1 The Auctioneer acts as agent for the Vendor.
- 4.2 The Auctioneer reserves the right to:
- a. refuse any bid;
  - b. withdraw any Lot from Auction;
  - c. remove a Bidder from the Auction;
  - d. not allow a Bidder to bid in the Auction;
  - e. clarify the description of any Lot before the commencement of a Live Auction or prior to the end of an online Auction;
  - f. not disclose the existence or amount of the reserve price of a Lot before the Auction ends;
  - g. place a Lot into Bid Extension during an online Auction; or
  - h. accept bids below the reserve price for the Lot.
- 4.3 Disputes concerning bidding shall be resolved by the Auctioneer in its absolute discretion by either determining the dispute or negotiating to sell the Lot with the next highest Bidder.

#### **5. BIDDING DURING THE AUCTION**

- 5.1 A Bidder is deemed to be bidding on a Lot on their own behalf unless before the Auction starts they disclose that they are acting as a Bidding Agent. If the Bidding Agent does not identify the principal, or provides incomplete, inaccurate or false details about the principal, the Auctioneer and Vendor shall not be bound by any contract, agreement or arrangement with any person other than the Bidding Agent.
- 5.2 The auction period for a Lot ends when the Auctioneer accepts the highest bid, at the time and date nominated for the Lot by the Auctioneer.
- 5.3 During an online Auction, a Lot may be sold during Bid Extension.
- 5.4 The auction of a Lot may be subject to a reserve price specified by the Vendor. The starting bid may be less than the reserve price.
- 5.5 Each bid is an irrevocable offer by the Bidder to purchase the Lot at the price specified in the bid. Once a bid is made, it cannot be revoked and remains open for acceptance by the Auctioneer until the Auction ends.
- 5.6 A bid will only be accepted by the Auctioneer if it is higher than the preceding bid,
- 5.7 Subject to any reserve price, the Bidder submitting the bid which is accepted and declared by the Auctioneer as the highest bid when the Auction ends, will be the purchaser of the Lot at the price specified in the bid.
- 5.8 Bid prices do not include costs, fees or charges for delivery of the Lot.
- 5.9 All bid prices are GST inclusive if the sale of the Lot is a taxable supply.

#### **6. PAYMENT OF THE PURCHASE PRICE**

- 6.1 The purchaser of the Lot must pay the purchase price to the Auctioneer no later than two (2) Business Days after the Auction ends.
- 6.2 When the purchaser pays the purchase price referred to in clause 6.1, the purchaser must also pay the Auctioneer the Buyer's Premium.
- 6.3 The purchase price and Buyer's Premium can only be paid by:
- a. electronic funds transfer; and/or
  - b. credit card or debit card (Mastercard, Visa or American Express).

#### **7. DEFAULT**

- 7.1 If the purchaser does not pay the purchase price for the Lot by the time specified in clause 6.1, the Vendor may:
- a. sell the Lot by private treaty to the next highest Bidder; and
  - b. recover from the purchaser any other loss, damage, cost or expense associated with the resale of the Lot, including the difference between the purchase price and resale price where the purchase price exceeds the resale price; or
  - c. abandon the Lot and recover the purchase price from the purchaser.
- 7.2 A purchaser that has defaulted on a payment obligation for the purchase of the Lot under these Terms and Conditions does not have any interest (legal, equitable or otherwise) in the Lot, or any cause of action against the Vendor or Auctioneer.

#### **8. TITLE AND RISK**

- 8.1 The Vendor warrants to the Auctioneer and Bidder that:
- a. it has good title to the Lot;
  - b. it has proper authority to sell the Lot; and
  - c. there are no undisclosed encumbrances or security interests recorded in relation to the Lot at the time the Lot is intended to pass.
- 8.2 The Vendor:
- a. acknowledges that the Auctioneer relies on the warranties in clause 8.1 when auctioning the Lot on behalf of the Vendor; and
  - b. agrees to indemnify the Auctioneer against any loss, damage, cost or expense it suffers or incurs in connection with it relying on the warranties in clause 8.1.
- 8.3 Title in the Lot does not pass to the purchaser until the Auctioneer has received the purchase price and Buyer's Premium.
- 8.4 The purchaser assumes all risk in relation to the Lot from when the Auction ends. The Auctioneer is not liable to the purchaser for any loss or damage to the Lot that arises, occurs or becomes apparent after the Auction ends unless the loss or damage is caused by the negligence of the Auctioneer.

#### **9. CONDITION OF THE LOT**

- 9.1 The Bidder accepts the Lot is offered for sale 'as is, where is' with all defects and faults (if any) and is not subject to a cooling off period.
- 9.2 The Auctioneer does not warrant or give any guarantee as to the condition or age of any Lot, or that any Lot is authentic, genuine, suitable, fit for purpose or of merchantable quality.
- 9.3 The Bidder acknowledges that any information provided by the Auctioneer in relation to any Lot:
- a. reflects the information provided to the Auctioneer by the Vendor; and
  - b. has not been independently verified by the Auctioneer for completeness or accuracy.
- 9.4 The Auctioneer is not liable for any loss, damage, cost or expense suffered or incurred by the purchaser arising out of or in connection with incorrect, incomplete or error in information provided about any Lot that the Auctioneer did not know, or had no reasonable cause to suspect that the information was incorrect or incomplete.
- 9.5 The purchaser must satisfy themselves by conducting their own inspection, enquiries and investigation as to the nature and condition of the lot(s) offered for sale.

## **10. COLLECTION AND DELIVERY**

- 10.1 The purchaser is responsible for all costs, fees and charges for collection of the Lot.
- 10.2 In-keeping with current COVID-19 restrictions applied by the Government, the Lot may be collected by Appointment Only from the respective Premises by contacting the Auction Team at each location during business hours.
- 10.3 The Lots can remain on the Premises for up to 4 weeks after the Auction ends. If further allowance is required, the purchaser will need to make arrangements with the Shannons team prior, otherwise storage fees of \$88 (including GST) per week per motor vehicle will apply.
- 10.4 The purchaser will not be allowed to collect or remove the Lot from the Premises until the Auctioneer has received the purchase price and Buyer's Premium.

## **11. GENERAL**

- 11.1 Shannons collects, holds, uses and discloses personal information in accordance with the Shannons Auctions Privacy Statement, which is available at <https://www.shannons.com.au/privacy/>.
- 11.2 The Bidder is responsible for identifying whether any Lot it intends to bid on for export out of Australia is subject to the Protection of Movable Cultural Heritage Act 1986 (Cth) (PMCH Act). The Vendor and Auctioneer do not make any representation about whether the PMCH Act applies to any Lot. The purchaser is not permitted to avoid the purchase of the Lot because they did not know the Lot was subject to the PMCH Act.
- 11.3 If a Bidding Agent purchases a Lot, then within two (2) Business Days from when the Auction ends the principal must:
  - a. ratify the agency;
  - b. pay the purchase price and Buyer's Premium; and
  - c. agree with the Auctioneer to be bound by every term, condition or other stipulation applicable to the Auction as if the principal were the Bidder.
- 11.4 Nothing in these Terms and Conditions is intended to limit or exclude, or does limit or exclude:
  - a. the consumer guarantees provided under the Schedule 2 of the Competition and Consumer Act 2010 (Cth) (Australian Consumer Law); and
  - b. the statutory warranties provided under the:
    - i. *Motor Dealers and Chattel Auctioneers Act 2014* (Qld)
    - ii. *Motor Dealers and Repairers Act 2013* (NSW); and
    - iii. *Motor Car Traders Act 1986* (VIC).