

# Terms and Conditions

Auction Club agrees to provide its services in accordance with, and the customer agrees to be bound by the following terms and conditions:-

## 1, Definitions

**Agreement** means the binding agreement between Auction Club and the customer, the terms of which are contained in this terms and conditions document.

**Auction fee** - means the auction fees charged by Auction club successfully purchases a vehicle on behalf of the customer at auction.

**Authorised Amount** - means the monetary amount nominated by the customer as the total amount the client is willing to spend (inclusive of the auction fee) to purchase a vehicle (not inclusive of any costs incurred after the purchase, including registration and transfer fees, roadworthy costs, servicing and warranties.)

**Contract Date** - means the date on which the Online Application Form is submitted by the customer.

**Customer** - means the natural person named as the customer in the Online Application Form.

**Nominated Credit Card** - means the credit card nominated by the Customer the details of which are entered into the Online Application Form.

**Online Application Form** - means the online application form completed by the customer when registering to use Auction Club services.

**Penalty interest means** - interest rate of 10% per annum.

**Services means** - the services provided by Auction Club to the Customer detailed in these Terms and Conditions.

**AC** - means the Auction Club.

**Vehicle means** - any specific vehicle the customer requests AC to purchase (or attempt to purchase) on the customers behalf.

## 2, Execution of Agreement

2.1 The Customer agrees upon filling out and submitting the Online Application Form they become bound to this agreement.

2.2 By completing the Online Application Form the Customer warrants that they have read these Terms and Conditions and fully understand their effect.

## 3, Services of AC

3.1 AC will provide the customer with the Services as soon as practicable after the Contract Date, or by date agreed in writing between the parties.

3.2 AC may at any time extend the agreed date for the Service if necessary

3.3 Upon the Customer submitting the Online Application Form and upon payment of the Application Fee by the Customer to AC, AC will thereafter attend to the following:

(a) Attempt to source vehicles that meet the requirements stated in the Customers Online Application Form

(b) Bring to the Customers attention any vehicles that have been sourced that meet the Customers requirements.

(c) Provide the Customer with one inspection report regarding the vehicles sourced and/or inspected on their behalf. The Customer acknowledges that AC is not obliged to provide more than one inspection report to them and cannot guarantee that the vehicle that is the subject of the inspection report remains available for the purchase after the inspection report is provided to the Customer.

3.4 The customer acknowledges that should they wish to purchase a vehicle sourced by AC, they will need to engage AC to purchase the vehicle and be required to pay for all costs for purchasing the Vehicle.

3.5 If the customer wishes to purchase a vehicle sourced by AC they must communicate in writing to AC that they wish for AC to attempt to purchase the vehicle. AC may, at their sole discretion, decline to purchase or attempt to purchase the vehicle for the Customer.

3.6 Provided AC agrees to attempt to purchase a vehicle for the Customer.

(a) AC will attend to the auction and negotiate a price or place bids on the selected vehicle on the Customers behalf and up to the Authorised Amount by then inclusive of any auction fees.

(b) The Auction Fee is payable by the customer if AC is successful in purchasing the Vehicle on the Customers behalf.

(c) The Parties acknowledge and agrees that AC may, and its discretion, either attempt to purchase the vehicle under the hammer at auctions/wholesalers or, if possible directly from the wholesaler by negotiation.

(d) If AC bid to purchase the vehicle be successful-

(i) The customer immediately will be charged \$500.00 from your Nominated Credit Card.

j. the Customer will be required to pay the remaining funds to AC within 24 hours of AC notifying you of the purchase.

3.7 The Customer is liable to account to AC for the purchase price of the Vehicle, provided the purchase price of the vehicle does not exceed the Authorised Amount.

3.8 In addition to the purchase price, the Customer is also liable to account to AC for the safety certificate and all transfer fees. The cost of the Safety Certificate will be in the vicinity of \$120, which will be organized by AC.

3.9 The Customer must arrange for the transfer of the vehicle within 5 days of AC notifying the Customer that it has purchased the Vehicle.

3.10 AC reserves the right to transfer the Vehicle to the Customer on their behalf, if they do not attend to the transfer in a timely manner, and to recover the cost of doing so from the Customer.

3.11 In the event that the Customer refuses or neglects to make payment of any monies due and owing to AC by the due date nominated by AC then the Customer hereby irrevocably authorises AC to debit the Customer's Nominated Credit Card for monies owing to AC, however such debit will not exceed \$1,500.00 regardless of whether the Customer's debt to AC exceeds that amount.

3.12 The Customer acknowledges and agrees that, as at the date the Vehicle is purchased by AC, the Vehicle is at the risk of the Customer and the Customer is responsible for any loss or damage as soon as AC takes possession of the Vehicle.

3.13 The Customer warrants that upon taking possession of the Vehicle they will:-

(a) immediately check all fluid levels (oil, water, transmission, brake and clutch);

(b) have the vehicle serviced by a competent mechanic within 7 days of taking acceptance of the vehicle;

(c) immediately attend to any mechanical work required.

3.14 In the event that, upon AC taking possession of the Vehicle, it is apparent that parts are needed to be purchased in order to make the vehicle road worthy, the Customer is liable for the cost of those parts.

3.15 In the event that the Customer does not arrange for the title and registration of the Vehicle to be transferred to the Customer (or its nominated entity/person) within a reasonable time frame, AC may take steps to arrange the transfer and the Customer is liable to reimburse AC for the costs associated.

3.16 The Customer cannot take possession of the Vehicle in circumstances where they have yet to transfer the registration out of AC's name, unless the Customer provides AC evidence that the customer holds a current driver's license and the Customer holds third party insurance for the Vehicle.

3.17 All fines, penalties and toll charges incurred in respect of the Vehicle after the Customer takes possession of the Vehicle are the liability of the Customer and the Customer must, within 2 business days' notice from AC of the existence of such costs, reimburse AC for any fines, penalties and toll charges that AC is required to pay in circumstances where such costs are incurred prior to the registration being transferred to the Customer. The Customer authorises AC to debit its Nominated Credit Card Account for any amount which it is obliged to reimburse to AC under this clause.

3.18 The Parties agree that AC will be entitled to charge the Customer Penalty Interest on any amounts owing under this Agreement that are overdue.

3.19 The Customer cannot withhold any amount owing to AC as a result of a set off claim or complaint regarding the Vehicle or service of AC.

3.20 The Customer agrees and acknowledges that once it has instructed AC to attempt to purchase a Vehicle on their behalf they are liable for the costs of the purchase, should the Customer's bid be successful.

3.21 AC gives no warranty as to the time and date by which its Services will be provided. AC does warrant that, if it has not commenced performing the Services at clause 3.3 within 90 days of the Customer completing the Online Application Form, the Application Fee will be refunded on request by the Customer and the Agreement will be at an end.

#### 4. Charges by AC

4.1 The Customer is charged by AC for its services as follows:-

(a) the Auction Fee – Each Auction charges different percentages of the winning bid as their fee however AC warrants that the Customer's winning bid and the Auction Fee together will not exceed the maximum amount authorised by you;

(b) the Application Fee:

- i. for any vehicle with an auction sale price up to \$2,000.00, is \$320.00;
- ii. for any vehicle with an auction sale price up to \$20,000.00, is \$620.00;
- iii. for any vehicle with an auction sale price over \$20,000.00, is \$720.00.

4.2 The Application Fee will be payable on submission by the Customer of the Online Application Form and is not refundable.

4.3 The Auction Fee will be payable on purchase of any vehicle at auction as a result of bids or offers placed on the Customer's behalf.

4.4 For late payment and holding fees:-

(a) All fees payable must be paid on the same day once the inspection report is received, a late payment fee of \$100.00 will apply to the Customer if payment isn't made same day;

(b) Invoices for cars purchased must be paid within 24 hours \$100.00 late fee per day after will be applied to the invoice;

(c) Holding fees of \$65.00 per day will be charged if car is not collected within 7 days of the car purchase invoice;

4.5 All amounts stated are exclusive of GST and GST (if any) will be in addition to the amount stated.

4.6 Any payment for the Services made by credit card or electronic means will incur a 2.5% surcharge of the total Application Fee or Auction Fee to cover bank transaction charges. Any cancellation by the Customer of a credit card payment will be a breach of this Agreement.

4.7 AC will be entitled to recover from the Customer all losses, charges, and fees incurred by AC as a result of such cancellation, in addition to recovery of the cancelled payment

4.8 If the Customer fails to pay any amount due under this Agreement, by the due date and time for payment, then:

(a) AC may charge the Customer the Penalty Interest on the amounts owing;

(b) AC may at its discretion suspend performing the Services;

(c) AC is entitled to recover any and all expenses it incurs in recovering amounts owing from the Customer including its legal costs on an indemnity basis.

## 5. Other Terms and Conditions

5.1 The Customer is not entitled to assign its rights and obligations under this Agreement.

5.2 Upon taking possession of the Vehicle the Customer warrants that it has had a proper opportunity to inspect the Vehicle and that the Vehicle is in good working order.

5.3 The Customer warrants that it:-

i. has relied on its own advice, enquires and commercial judgment in offering to purchase any Vehicle through AC;

ii. that it does not rely on any oral representation from any AC representative as to the condition of a Vehicle it offers to purchase.

5.4 If anything in this Agreement is unenforceable, illegal, or void then it is severed and the rest of this Agreement remains in force.

5.5 This Agreement is governed by the laws of Queensland and the parties submit to the non-exclusive jurisdiction of the courts of Queensland and the Federal Court of Australia.

5.6 This Agreement contains the entire understanding and agreement between the parties.

5.7 If either party terminates this Agreement, any amounts owing under the Agreement will continue to be owing to the party entitled to them.

- You authorise Credit card to be charged All fines and toll charges incurred while the vehicle is driven by you or the person authorised by you, or while in your possession or control, and before registration is transferred to you will result in a \$70.00 administration fee for each fine, payable to Auction Club Vehicles Australia and all fines and toll charges will be payable by you and if not paid by you may be paid by Auction Club Vehicles Australia and recoverable from you.<sup>[17]</sup> If you fail to make any such payment by any due date or time we and you agree we may:

- Charge you, in addition to the recovery of fines and tolls paid on your behalf and any administration fee, interest (at a rate of 10% per annum) on any outstanding amounts if those outstanding amounts remain unpaid for more than seven days from the date of our invoice or when we asked you first to pay them; and/or

- suspend performing the remaining Services until you make payment.

6. The Application Fee:

i. for any vehicle with an auction sale price up to \$2,000.00, is \$320.00;

ii. for any vehicle with an auction sale price up to \$20,000.00, is \$620.00;

iii. for any vehicle with an auction sale price over \$20,000.00, is \$720.00.