

# JOHN PYE & SONS - TERMS OF PARTICIPATION AND PURCHASE OF VEHICLES BY AUCTION

## 1 INTERPRETATION

1.1 The definitions in this clause apply to these Terms:

**“Buyer”** shall mean the maker of the highest bid accepted by JOHN PYE & SONS whether on the fall of the hammer (when the Hammer Price is achieved) or by private treaty sale.

**“Buyer Premium”** means the percentage of the Hammer Price, as specified in the Important Notes, usually being 25% of the price of the Lot.

**“Contract”** means the contract for purchase formed between the Buyer and the Seller once the Hammer Price has been achieved.

**“Defaulter’s Entry Fee”** means the fee of £130 to be charged to the relevant party in the case of any Vehicle having to be re-auctioned otherwise than due to a fault of JOHN PYE & SONS.

**“Deposit”** means the deposit paid by the potential buyer upon Registration of either £200 or £500 as notified by JOHN PYE & SONS in the Important Notes.

**“Hammer Price”** shall mean the highest bid accepted by JOHN PYE & SONS including any VAT that may be included therein.

**“Important Notes”** means the notes associated with each auction including but not limited to the Health & Safety notes, viewing times, payment details, collection times, the amount of the Buyer Premium, VAT chargeable, and any other relevant terms relating to that particular auction and/or sale, and which in all cases are governed by these Terms.

**“JOHN PYE & SONS”** means John Pye and Sons Limited and includes the trading style John Pye Auctions but is not limited to JOHN PYE & SONS, which has conduct of auctions and sales and/or any of its other authorised representatives thereof.

**“Premises”** means the premises in which the auction is taking place, and, where relevant, the location where the individual Vehicles and/or lots under the control of JOHN PYE & SONS are stored.

**“Registration”** means all of the following:

- a. the payment of the Deposit electronically, or as otherwise notified by JOHN PYE & SONS in the relevant Important Notes; and
- b. the presentation of 2 forms of valid photo identification acceptable to JOHN PYE & SONS.

**“Seller”** includes any prospective seller save where the context otherwise requires.

**“VAT”** means Value Added Tax.

**“Vehicle”** includes every kind of motor car, motorcycle, trailer and/or motorised caravan and every kind of commercial, agricultural and other self-propelled vehicle

and mechanical and electrical plant and equipment, and any current vehicle excise license attached to it, one or more of which may comprise a lot offered for sale or auction.

“**Website**” means the website selling Vehicles accessed via the domain name “johnpyevehicles.co.uk” and “johnpye.co.uk”.

“**Working Day**” means any day that JOHN PYE & SONS is open to the public for business.

- 1.2 Headings do not affect the interpretation of these Terms.
  - 1.3 The headings of the Terms do not form part of the Terms.
  - 1.4 References in these Terms to writing or written include e-mail but not faxes.
  - 1.5 If any of these Terms are inconsistent with any term of the Important Notes, the Important Notes shall prevail.
  - 1.6 Except where the context requires otherwise words denoting the singular include the plural and vice versa. Words denoting one gender include all genders and words denoting persons include corporations and vice versa.
  - 1.7 A reference to a statute or a statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension or re-enactment, and includes any subordinate legislation for the time being in force made under it.
  - 1.8 Reference to a ‘lot’ or ‘lots’ under these Terms is a general reference in respect of the auction of Vehicles only.
  - 1.9 All Vehicle entries, sale and purchases of Vehicles at our public auctions (which include our online auctions) are subject to these Terms.
  - 1.10 All Buyers and Sellers acknowledge and agree that these Terms are binding upon them. These Terms are deemed accepted and incorporated into all dealings and contracts as between the relevant parties by:
    - 1.10.1 Buyers completing registration; and/or
    - 1.10.2 JOHN PYE & SONS accepting the Seller’s Vehicle(s) for auction.
- 2 ENTRY INTO AUCTION**
- 2.1 JOHN PYE & SONS in all cases sells as agent for the Seller and as such is not responsible for any default by the Seller.

- 2.2 Unless otherwise agreed by JOHN PYE & SONS in writing, a Vehicle shall not be deemed accepted into any auction unless and until the Seller has produced:
- 2.2.1 the Vehicle; and
  - 2.2.2 Form V5 in respect of the Vehicle;
  - 2.2.3 any required entry fee as specified by JOHN PYE & SONS in accordance with these Terms;
  - 2.2.4 the keys of the Vehicle;
  - 2.2.5 all other certificates pertaining to the Vehicle which the Seller is reasonably able to produce upon request; and
  - 2.2.6 the service history if available.
- 2.3 For the avoidance of doubt, and notwithstanding the production of the items listed in clause 2.2 above, JOHN PYE & SONS reserves the right to charge an entry fee:
- 2.3.1 when a Vehicle is entered for auction, such entry fee will be agreed between the Seller and JOHN PYE & SONS at the relevant time; and
  - 2.3.2 if for any reason the Vehicle is entered for re-sale subsequent to the initial auction (otherwise than due to a fault of JOHN PYE & SONS), then JOHN PYE & SONS will be entitled to charge the Defaulters Entry Fee each time the same Vehicle is re-entered for auction);
- such entry fee will be fixed at a reasonable amount deemed appropriate by JOHN PYE & SONS.
- 2.4 The Seller warrants to JOHN PYE & SONS and to the Buyer that:
- 2.4.1 the Seller is the true owner of the Vehicle and/or is properly authorised to sell the Vehicle by the true owner;
  - 2.4.2 the Seller is able to transfer a good and marketable title to the Vehicle free from any third-party claims;
  - 2.4.3 the Vehicle bears the proper chassis number and registration marks; and
  - 2.4.4 every representation made by the Seller (in any form) concerning the Vehicle is wholly accurate and informed, and the Seller acknowledges that such representations will be relied upon by JOHN PYE & SONS and the Buyer.
- 2.5 The Seller will indemnify JOHN PYE & SONS, its servants and agents and the Buyer against any loss or damage suffered by them in consequence of any breach of the warranties set out in clause 2.4 above on the part of the Seller.
- 2.6 Save where otherwise agreed and following the relevant deductions JOHN PYE & SONS shall remit the proceeds of the sale to the Seller not later than one month after the auction.

- 2.7 Where a Seller cancels instructions for the sale of a Vehicle, JOHN PYE & SONS reserves the right to charge the Defaulter's Entry Fee plus 5% of JOHN PYE & SONS' latest estimate of the auction price of the Vehicle withdrawn (plus VAT where applicable).
- 2.8 Where any Vehicle fails to sell, JOHN PYE & SONS will notify the Seller accordingly. The Seller will make arrangements either to re-offer the Vehicle for auction or to collect the Vehicle, and if such arrangements are not made:
- 2.8.1 Within 2 Working Days of notification, the Seller will be responsible for any removal, storage and insurance expenses of the Vehicle as notified by JOHN PYE & SONS; and
- 2.8.2 Within 4 Working Days of notification, JOHN PYE & SONS will have the right to sell the Vehicle at public auction without reserve and to deduct from the Hammer Price any sum owing to JOHN PYE & SONS including removal, storage and insurance expenses, the entry fee in respect of the first auction (together with any VAT chargeable thereon), a Defaulter's Entry Fee, commission on the second auction and all other reasonable expenses before remitting the balance to the Seller.

### **3 BASIS OF SALE**

- 3.1 All vehicles are sold 'as they lie' with all faults and imperfections and errors of description. The absence of any reference to the condition of a Vehicle does not imply that the Vehicle is free from faults, imperfections and/or restoration. Illustrations in catalogues or brochures are for identification purposes only. JOHN PYE & SONS will not be held responsible for any damage or defect that has not been notified to the Buyer.
- 3.2 Buyers must satisfy themselves prior to sale as to the condition of each Vehicle and should exercise and rely on their own judgement as to whether the Vehicle accords with its description. Prospective Buyers bid on the understanding that, inevitably, representations or statements by JOHN PYE & SONS as to genuineness, origin, date, age, Vehicle starting capability or condition involve matters of opinion. Neither JOHN PYE & SONS nor its employees or agents nor the Seller accept liability for the correctness of such opinions. Neither JOHN PYE & SONS, its servants or agents will be responsible for errors of description or for the genuineness or authenticity of any Vehicle.
- 3.3 No warranty (written or oral) or other term (whether express or implied and whether implied by statute, common law, custom or otherwise) as to the age, description, suitability, fitness for purpose, satisfactory quality or roadworthiness of the Vehicle is given by JOHN PYE & SONS, its servants or agents or by any Seller to any Buyer in respect of any lot, and any express or implied conditions or warranties are excluded to the fullest extent permitted by law. For the avoidance of doubt, the Vehicles are not sold by sample.

- 3.4 Any reference to the age of a Vehicle in the lot description relating to it is intended to be a reference to the year of first registration of the Vehicle in the United Kingdom.
- 3.5 Except in respect of the Important Notes:
- 3.5.1 no oral or written representation made prior to or at the time of sale of any Vehicle shall be deemed to be a representation of fact.
- 3.5.2 No oral or written representations shall be deemed to be incorporated into the contract for sale nor to have induced any potential buyer to bid.
- 3.5.3 JOHN PYE & SONS undertakes no obligation or duty (whether in contract or tort or otherwise) in respect of the accuracy or completeness of any statement or representation made by JOHN PYE & SONS or on JOHN PYE & SONS' behalf which is in any way descriptive of any Vehicle.
- 3.6 Buyers buy Vehicles where they lie and are wholly responsible to bring any necessary labour and equipment in order to remove their Vehicle(s) and shall comply with any directions which may be given by JOHN PYE & SONS as to the safe removal of the Vehicle(s) and in giving due care to other lots on the Premises and the Premises itself.
- 3.7 These Terms shall become binding on the Seller and Buyer respectively when:
- 3.7.1 The Seller's Vehicle is accepted by JOHN PYE & SONS to be considered for auction; and
- 3.7.2 The Buyer completes Registration.
- 3.8 JOHN PYE & SONS has the right to revise and amend these Terms from time to time to reflect changes in market conditions affecting its business, changes in technology, changes in payment methods, changes in relevant laws and regulatory requirements and changes in various systems' capabilities. Buyers and Sellers will be subject to the policies and terms in force at the time these Terms become binding in accordance with clause 3.7 above.
- 3.9 The Buyer acknowledges that a sale by auction is Not a consumer sale for the purposes of the Sale of Goods Act 1979 (as amended by the Sale and Supply of Goods Act 1994 and as replaced by the Consumer Rights Act 2015) and the Unfair Contract Terms Act 1977 / 1999 Regulations and the Buyer shall not seek to rely upon any conditions or warranties implied thereby or by any other legislation. All Vehicles are strictly Sold as Seen with no grading or guarantees and can be second-hand, salvage, repossessed and/or seized.
- 3.10 Any estimate of likely value provided in respect of a Vehicle is solely an expression of JOHN PYE & SONS' opinion (made on behalf of the Seller); such estimates are not an estimate of the actual value of a Vehicle. Such estimates do not take into account any

VAT or Buyer Premium payable. Estimates should not be relied on as an indication of the likely selling price or actual value of a Vehicle.

- 3.11 Private treaty sales made under these Terms are deemed to be sales by auction for purposes of consumer legislation.

#### **4 RISK AND TITLE**

- 4.1 Title to the Vehicle shall not pass to the Buyer until the Hammer Price, the Buyer's Premium and any applicable VAT have been received in full and in cleared funds by JOHN PYE & SONS. Until title passes, and subject to clause 7.1 below, JOHN PYE & SONS reserves the right to dispose of the Vehicle in accordance with clause 2.8 above.

- 4.2 From the delivery of a Vehicle to the Premises until the Hammer Price in respect of a Vehicle is reached or the Vehicle is removed by the Seller (including any time during which the Vehicle is being tested or demonstrated on the auction premises, or elsewhere) the Vehicle is at the risk of the Seller, and neither JOHN PYE & SONS nor its servants or agents will be responsible for any loss or damage whether caused by negligence or otherwise.

- 4.3 Notwithstanding clause 4.1 above, a Vehicle is deemed sold from the time when the Hammer Price is reached and the Vehicle is at the risk of the Buyer from that point onwards.

#### **5 CONDUCT OF THE AUCTION**

- 5.1 Without prejudice to any other rights set out in these Terms, JOHN PYE & SONS has absolute discretion without giving any reason to refuse any bid, to withdraw any Vehicle before the hammer falls, to divide any lot, to combine any two or more lots, or to withdraw any lot and/or Vehicle from the auction. JOHN PYE & SONS is not bound to accept any offer.

- 5.2 Potential buyers wishing to participate in an auction must first:

5.2.1 view all lots; and

5.2.2 Complete Registration (including the payment of the Deposit),

before they will be permitted to participate in any auction.

Potential buyers further acknowledge and agree that they have the right to attend the sale of the lots in person.

- 5.3 The contract of sale between the Seller and a Buyer is formed once the Hammer Price has been achieved, at which point the Vehicle shall be deemed sold subject to the provisions of clause 4.1 above.

- 5.4 For the avoidance of doubt, the parties to the contract of sale of the Vehicle are the Buyer and the Seller. JOHN PYE & SONS is not a party to the contract of sale but acts as the Seller's agent only and is not liable for any breach thereof by either the Buyer or the Seller.
- 5.5 It shall be a term of the contract of sale that the Buyer accepts the bodywork, the tyres, the exhaust, the battery and the upholstery of the Vehicle with all damage and defects (if any) which an inspection of the interior and the exterior ought reasonably to reveal.
- 5.6 Immediately after the achievement of the Hammer Price the terms of clause 6 below shall apply.
- 5.7 If a potential buyer is unsuccessful in achieving the Hammer Price, they may recover their Deposit from JOHN PYE & SONS or, they may request in writing that JOHN PYE & SONS keep the Deposit against future auctions in which the potential buyer may participate and make them a registered 'regular customer' of JOHN PYE & SONS provided they produce valid identification when requested.
- 5.8 Any disputes in relation to the bidding or following the attainment of the Hammer Price shall be referred to JOHN PYE & SONS for decision. In resolving disputes JOHN PYE & SONS shall have absolute discretion to cancel the contract of sale and/or to re-auction the Vehicle (which is the subject of any dispute) either during the same or a subsequent auction or to offer the Vehicle for sale by private treaty. In all cases, JOHN PYE & SONS' is under no obligation to justify or explain its decision in respect of any such dispute and such decision will be final.
- 5.9 In the event that JOHN PYE & SONS exercises its discretion to cancel the contract referred to at clause 5.3 above, neither the original Buyer nor the Seller shall be entitled to rely on the original contract of sale for any purpose whatsoever save that the Buyer shall be entitled to the return of any deposit or other money which he may have paid under the original contract.
- 5.10 Every bidder shall be deemed to act as principal unless there is in force in respect of each and every applicable auction or sale a written acknowledgment by JOHN PYE & SONS that he acts as agent on behalf of a named principal.
- 5.11 JOHN PYE & SONS shall not in any circumstances be obliged to announce any reserve price.
- 5.12 All potential Buyers and Sellers must produce valid photo identification upon request. JOHN PYE & SONS reserves the right to refuse any potential sellers and/or buyers that fail to produce such identification the opportunity to participate in any auction or sale.

- 5.13 Persons attend and participate in auctions at their own risk and neither the Seller nor JOHN PYE & SONS will be individually or collectively responsible for any loss or damage whatsoever occasioned to any person or property who or which may be present on the auction site or Premises for any purpose whatsoever.
- 5.14 Where JOHN PYE & SONS conducts a sale on behalf of a Seller who is either a receiver, administrator or liquidator of a limited company or a trustee in bankruptcy:
- 5.14.1 The Seller and JOHN PYE & SONS on their behalf only sell whatsoever right, title or interest the company or bankrupt may have in any lot;
- 5.14.2 In the event of a third party proving to have a superior title or right to custody or possession of any Vehicle JOHN PYE & SONS may rescind the contract of sale and upon return of any Deposit and/or Hammer Price to the Buyer, neither the Seller nor JOHN PYE & SONS shall be under any further liability to the Buyer.
- 5.15 JOHN PYE & SONS shall have the right, at its discretion, to refuse admission to the Premises and/or attendance at and/or participation in (whether on a temporary or permanent basis) the auctions by any person at any time.
- 5.16 The Important Notes will be made available to potential buyers on the Website, in the relevant catalogue, on request, and will be on display at the Premises.

## **6 PRICE AND PAYMENT**

- 6.1 Immediately following the achievement of the Hammer Price, the Buyer shall follow the appropriate process as notified to the Buyer by JOHN PYE & SONS and pay the Hammer Price (plus VAT where relevant), and the Buyer Premium (plus VAT where applicable). If the Buyer fails to make payment pursuant to this clause by 5 pm on the next Working Day after the Hammer Price has been achieved, or such other time as is specified in the Important Notes, JOHN PYE & SONS shall have absolute discretion to cancel the contract of sale, to retain the Deposit, and the terms of clause 8.1 below will apply.
- 6.2 All required payments must be settled in full before removal of the Vehicle is permitted. Payments must be made in sterling (GBP) by BACS, CHAPS, ~~Bankers Draft~~ Debit Cards, Credit Cards or as otherwise specified in the Important Notes or directly by JOHN PYE & SONS. All queries in relation to methods of payment must be made to JOHN PYE & SONS' accounts department. Unless otherwise expressly agreed in writing by JOHN PYE & SONS, the time for payment pursuant to these Terms is of the essence and will under no circumstances be adjusted further due to a failure on the part of the Buyer to make the necessary enquiries and preparations in order to pay the Hammer Price.



- 6.3 In respect of telegraphic transfers, the remitting bank must include the bidding number, invoice number, and any other reference as shown in the Important Notes, or as otherwise directed by JOHN PYE & SONS.
- 6.4 All lots are sold exclusive of VAT which will be added to the Hammer Price at the prevailing rate (if applicable).
- 6.5 All lots must be paid for in accordance with clause 6.1 above and must be removed no later than the time specified in the Important Notes.
- 6.6 The Important Notes set out:
- 6.6.1 viewing times;
  - 6.6.2 payment details;
  - 6.6.3 collection times;
  - 6.6.4 the amount of commission (if any) which will be payable by the Seller as a percentage of the Hammer Price;
  - 6.6.5 the amount of the Buyer Premium;
  - 6.6.6 any service charges (including storage charges);
  - 6.6.7 VAT payable (if any);
  - 6.6.8 Registration details;
  - 6.6.9 location details; and
  - 6.6.10 specific detail relating to the particular auction.
- 6.7 JOHN PYE & SONS charges a “Buyer Premium” on the Hammer Price of all Vehicles. The Buyer Premium is set out in the Important Notes and is a percentage of the Hammer Price which is charged to the Buyer. VAT is payable on the Buyer Premium.
- 6.8 Before remitting the proceeds of any sale to the Seller JOHN PYE & SONS is entitled to deduct from the Hammer Price the relevant fees (plus any VAT chargeable thereon) in respect of each Vehicle (which may, for the avoidance of doubt, include any commission due, the entry fee due (if not already paid) and any other previously notified fees chargeable).
- 6.9 Without prejudice to any other rights of JOHN PYE & SONS under these Terms in respect of the charging of commission, entry fees, Buyer Premium, and any other relevant fees, JOHN PYE & SONS is entitled to charge commission and Buyer Premium in all cases including but not limited to:
- 6.9.1 when the Vehicle is sold in an auction irrespective of whether the contract of sale is later rescinded (save further to an act or omission of JOHN PYE & SONS);

- 6.9.2 if the Vehicle is sold (or re-sold) by JOHN PYE & SONS by way of private treaty sale;
  - 6.9.3 if the Vehicle is re-sold further to the default of the Buyer, or the Seller;
  - 6.9.4 if the Seller becomes the Buyer.
- 6.10 Without prejudice to any of JOHN PYE & SONS' rights under these Terms, for the avoidance of doubt:
- 6.10.1 JOHN PYE & SONS is not under any obligation to pay any monies to the Seller following the auction until such time as the Buyer remits all monies due in accordance with this clause 6; and
  - 6.10.2 JOHN PYE & SONS is entitled to deduct from any payment due to the Seller, any and all amounts howsoever owed by the Seller to JOHN PYE & SONS which JOHN PYE & SONS has obtained prior consent from the Seller to so deduct.

## **7 BUYER'S DUTIES**

- 7.1 Unless otherwise stated in the Important Notes (but in any event not before payment to JOHN PYE & SONS has been made in accordance with clause 6 above), the Buyer shall at his own expense and risk take away the Vehicle(s) purchased. Collection of Vehicle(s) must take place not later than 5pm the following Working Day after the conclusion of the auction in which the Vehicle was purchased. If the Buyer fails to collect the Vehicle(s) in accordance with this clause, the provisions of clause 8.2 below will apply.
- 7.2 The Buyer shall fully indemnify and keep indemnified JOHN PYE & SONS in the event of any damage or loss caused and/or occasioned to any adjoining or other lots or to the Premises by their removal of the Vehicle(s).
- 7.3 The Buyer shall be responsible for any injury to and/or death of any person resulting from the removal of their Vehicle(s) and shall fully indemnify and keep indemnified, JOHN PYE & SONS against any such liability whether or not such injury and/or death was caused by the negligence of the Buyer, his employees or agents.
- 7.4 In accordance with clause 4.3 above, from notification of successful bid the Buyer will be responsible for loss or damage to the Vehicle(s) and neither JOHN PYE & SONS nor its servants or agents shall be responsible for any loss or damage of any kind, whether caused by negligence or otherwise, while any Vehicle remains in its custody or under its control.
- 7.5 The Buyer of any Vehicle is responsible for complying with all legal requirements as to the construction and use of that Vehicle and for obtaining all insurances, certificates, permits or other authorisations necessary before that Vehicle can be used on any road,

and the Buyer will not use the Vehicle on any road or remove it from the Premises under its own power until it is roadworthy, can be used lawfully on the road, and has all necessary certificates.

- 7.6 By accepting these Terms the Buyer further undertakes to take such reasonable and practical steps as are sufficient to ensure that their purchase will be safe and without risk to health and safety when properly used.
- 7.7 If required to do so by JOHN PYE & SONS the Buyer will provide a written undertaking (in a form acceptable to JOHN PYE & SONS) to comply with all duties and obligations in respect of the Vehicle by the Road Traffic Act 1972, the Health and Safety at Work Act 1974, any subsequent modification or re-enactment of either Act or by any other legislation affecting the use of the Vehicle. JOHN PYE & SONS may cancel the contract of sale if the Buyer fails to provide such an undertaking upon request. In this event, JOHN PYE & SONS will be entitled to re-auction the Vehicle at any time.
- 7.8 The Buyer shall be responsible for any damage occasioned to any adjoining or other lots or to the Premises by the removal of their Vehicle(s) and shall repair the same either before removal of the Vehicle(s) from the Premises or after such removal as JOHN PYE & SONS may desire or shall pay the estimated cost of doing so to be fixed by JOHN PYE & SONS whose decision shall be binding on the Buyer.
- 7.9 Neither the Seller nor JOHN PYE & SONS shall be under any liability pursuant to section 6 of the Health and Safety Act 1974.

## **8 BUYER'S DEFAULT**

- 8.1 If the Buyer does not honour its obligations for payment under clause 6 above in any way, as agent of the Seller and without prejudice to any other rights it may have JOHN PYE & SONS may at any time elect to exercise one or more of the following rights or remedies:
- 8.1.1 to rescind the contract for sale of the Vehicle(s) (or any other Vehicle(s)) sold to the defaulting Buyer at the auction; and/or
- 8.1.2 to retain the Deposit and to pursue the Buyer directly for all monies owed including damages for breach of contract; and/or
- 8.1.3 to enter the Vehicle(s) in question to be re-sold at public auction or by private treaty sale costs; and/or
- 8.1.4 to remove, store (either at the Premises or elsewhere) and insure the Vehicle at the expense of the defaulting Buyer; and/or
- 8.1.5 to charge interest at a rate not exceeding 2% per month on the Hammer Price to the extent that it remains unpaid for more than 2 Working Days after the day of the relevant auction; and/or

- 8.1.6 to retain that or any other Vehicle(s) sold to the same Buyer at the same or any other auction and release it/them only after payment of the Hammer Price; and/or
  - 8.1.7 to reject or ignore any bids made by or on behalf of the defaulting Buyer at any future auction; and/or
  - 8.1.8 to apply any proceeds of sale then due or at any time afterwards becoming due to the defaulting Buyer towards settlement of the Hammer Price and to exercise a lien on any property of the defaulting Buyer which is for any purpose in JOHN PYE & SONS' possession.
- 8.2 If the Buyer fails to remove the Vehicle from the Premises as required under clause 7.1 above (and such failure to remove the Vehicle is not due to a fault of JOHN PYE & SONS) JOHN PYE & SONS will have the right to:
- 8.2.1 re-enter the Vehicle into auction and charge the Defaulter's Entry Fee to the Buyer;
  - 8.2.2 charge a one-off administration fee of £50 (plus VAT if applicable);
  - 8.2.3 move the Vehicle (at the risk of the Buyer provided that JOHN PYE & SONS will use reasonable care and skill in such a move) to another Premises from that where the Buyer purchased the Vehicle; and
  - 8.2.4 for every calendar day following the day on which the Vehicle(s) should have been collected from the Premises by the Buyer, without exception the Buyer will incur a daily storage charge of £21 plus VAT per Vehicle stored, such charges will continue to accrue notwithstanding the transfer of any Vehicle to an alternative premises by JOHN PYE & SONS (and for the avoidance of doubt, JOHN PYE & SONS will deduct such charge from the Deposit).
- 8.3 When a Vehicle is re-auctioned pursuant to clause 8.1 or 8.2 or otherwise in accordance with these Terms as deemed appropriate by JOHN PYE & SONS, the proceeds of such re-sale will be applied in the following manner:
- 8.3.1 the Defaulters Entry Fee on the re-sale which will be charged to the Buyer;
  - 8.3.2 any outstanding storage fees, removal fees, and insurance expenses due;
  - 8.3.3 Seller's commission; and
  - 8.3.4 any sums due under the original contract following the first auction;
- (together with any VAT chargeable on each sum).

JOHN PYE & SONS may only apply the Deposit as against the costs listed above if the re-sale is occurring further to clause 8.1. In the case of a re-sale occurring further to clause 8.2, the Deposit will first be applied as against the costs listed above, followed by the proceeds of the re-sale. In all cases the defaulting Buyer is further liable to pay to JOHN PYE & SONS any resulting deficiency in the purchase price achieved at the first auction after deduction of any part payment and addition of the resale costs listed in this clause.

- 8.4 If title to the Vehicle has passed to the Buyer, the balance of the re-sale price, if any, shall be paid to them but shall otherwise be paid to the original Seller or, where the Seller's rights have been transferred to JOHN PYE & SONS, shall be retained by JOHN PYE & SONS. The original Buyer will remain liable to JOHN PYE & SONS and/or the Seller subsequent to the re-sale, save where the proceeds of the re-sale have discharged such liabilities arising out of the first auction.
- 8.5 For the avoidance of doubt, nothing in these Terms limits JOHN PYE & SONS' liability, nor, where applicable, the liability of the Buyer or Seller for:
- 8.5.1 death or personal injury caused by negligence; or
  - 8.5.2 fraud or fraudulent misrepresentation; or
  - 8.5.3 any breach of the obligations implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982; or
  - 8.5.4 losses for which it is prohibited by section 7 of the Consumer Protection Act 1987 to limit liability; or
  - 8.5.5 any other matter for which it would be illegal or unlawful to exclude or attempt to exclude liability.

## **9 DATA PROTECTION**

- 9.1 Personal data will be processed as set out in the John Pye Privacy Policy which can be viewed at [www.johnpye.co.uk/privacy-policy/](http://www.johnpye.co.uk/privacy-policy/), as updated, amended or replaced by John Pye from time to time.

## **10 GENERAL**

- 10.1 If any court or competent authority decides that any of the provisions of these Terms are invalid, unlawful or unenforceable to any extent, the term will, to that extent only, be severed from the remaining terms, which will continue to be valid to the fullest extent permitted by law.
- 10.2 If, or to the extent that, any of these Terms (as amended from time to time in writing by JOHN PYE & SONS) are Terms to which any of the provisions of the Unfair Contract Terms Act 1977 or the Supply of Goods and Services Act 1982 or any subsequent modification or re-enactment thereof apply then such Terms shall be enforceable only to the extent permitted by those Acts or their subsequent modification or re-enactment and these Terms shall be construed accordingly.
- 10.3 If at any time while these Terms are in force JOHN PYE & SONS fails to insist that the Seller and/or Buyer perform their obligations under these Terms, or if JOHN PYE & SONS does not exercise any of its rights or remedies under these Terms, that will not mean that JOHN PYE & SONS has waived such rights or remedies and will not mean

that the Seller and/or Buyer does not have to comply with those obligations. If JOHN PYE & SONS does waive a default by the Seller and/or Buyer that will not mean that JOHN PYE & SONS will automatically waive any subsequent default by the Seller and/or Buyer. No waiver by JOHN PYE & SONS of any of these Terms shall be effective unless JOHN PYE & SONS expressly says that it is a waiver and JOHN PYE & SONS tell the Buyer and Seller so in writing.

- 10.4 A person who is not party to these Terms shall not have any rights under or in connection with them under the Contracts (Rights of Third Parties) Act 1999.
- 10.5 Lots in our auctions that have been physically de-branded/de-badged are to remain de-branded or de-badged. No original trademarks, web images, vendor/client's logos or any other intellectual property may be copied or used by the winning bidder. Any customers in breach risk permanent exclusion from auctions and salerooms.
- 10.6 These Terms, any disputes and/or claims arising out of them shall be governed by English law and JOHN PYE & SONS, the Seller and the Buyer all agree to the exclusive jurisdiction of the English courts to resolve any such disputes.

## **11 ONLINE TERMS OF PARTICIPATION AND SALE**

- 11.1 Subject to the following clauses the provisions of all Terms above apply to the sale of Vehicles made via the Website, and to the extent that any adjustments in practical application of the Terms are warranted by virtue of the electronic medium of participation in any given auction, so such adjustments shall be deemed made so to give full application to all relevant and applicable Terms.
- 11.2 All participants in the Website auctions warrant that they are of legal age to operate any Vehicle which they purchase and are otherwise legally capable of entering into binding contracts.
- 11.3 Provision 5.5 of the Terms shall apply to the extent that it is not in conflict with any online grading system or other description provided by JOHN PYE & SONS through the Website.
- 11.4 Any reference in the above Terms to the Buyer Premium, for the purposes of sale/purchases over the Website, does not include any online Buyer's fees, which will be notified to the Buyer in the Important Notes.
- 11.5 The Website operates a '3-minute rule' which means that each and every bid placed within the last 3 minutes of a specific lot closing time will trigger the automatic extension of the lot closing time by an additional 3 minutes.

- 11.6 Use of the JOHN PYE & SONS online bidding platform is at all times subject to JOHN PYE & SONS' Conditions of Website use.
- 11.7 During an auction, potential Buyers can bid for a Vehicle by clicking the "Bid" button. Each bid shall be final and binding as soon as the Bid button is clicked.
- 11.8 Buyers acknowledge that the online auction is a live auction and agree that each bid submitted as provided in these Terms is irrevocable and cannot be amended or corrected, even if submitted in error and notified to JOHN PYE & SONS.
- 11.9 Buyers are fully liable for all bids submitted via their online bidding account (including the liability to pay in full and on time in accordance with these Terms for any Vehicle that is the subject of a successful bid submitted from the Buyer's account).
- 11.10 JOHN PYE & SONS provides the online bidding service "as is" and without any warranty or condition, express, implied or statutory. Without limiting the foregoing, JOHN PYE & SONS accepts no liability for any failures, delays or errors caused by interruptions in the availability of the online bidding service or the Website or any errors or defects in their content or functionality, any software and/or hardware defects (whether the potential Buyers or JOHN PYE & SONS') and or any internet connection problems (whether the potential Buyers or JOHN PYE & SONS') and JOHN PYE & SONS do not represent or warrant that the Website or online bidding platform will be error-free, virus free, or that any defects will be corrected.

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