

CONDITIONS OF SALE

1.0 General

- A. The sale is concluded by Smart Bid Auction Sdn Bhd (1515363-P) (hereinafter referred to as '**Auction House**') as appointed by and as agent for the Seller (hereinafter referred to as the '**Legal Owner**') of the vehicle(s) listed in the Proclamation of Sale (hereinafter shall refer to '**Auction List**') subject to the regulations implied or imposed upon or relating to or affecting the vehicle(s) (hereinafter referred to as the '**Vehicle**').
- B. The sales of vehicle(s) at the auction shall result in a contract of the sale and purchase (hereinafter referred to as "**Contract/Memorandum of Sale**") of the respective vehicle(s) being entered into between the Legal Owner and the successful bidder (hereinafter referred to as '**Purchaser**' or '**You**').
- C. By participating in any auction (including registering as bidder or appoint any agent to bid) indicates that you have read, understand and agree with this Condition of Sale and attaining the minimum majority age of 18 years old and must be citizens or permanent residents of Malaysia.. In the event where you do not agree with any terms as so contained in this Condition of Sale, you shall not under any circumstances participate in any auction conducted by the Auction House and shall not place any bid on any auction unit.
- D. The headings herein contained are inserted merely for convenience of reference and shall be ignored in the interpretation of any of the clauses and provisions herein contained.
- E. Any term relating to auctions or automobile not specifically defined herein shall be construed in accordance with the general business practice and trade of auctions or automobile industry.
- F. By participating in this auction, the persons intending to bid in this auction ("**Bidders**") confirm that:
 - I. the valuation/pricing of the Vehicles are made by the Bidders based on their own independent judgment;
 - II. Bidders participate in this auction on their own free will;
 - III. Bidders have understood, agree and have obtained own independent legal and expert advice on this terms and conditions;
 - IV. Bidders authorise the disclosure of their details to relevant authorities, including but not limited to, the Road Transport Department, the Royal Malaysian Police Department and Puspakom Sdn Bhd (collectively "**Authorities**") for any purpose as may be required by the Authorities.
- G. Together with the contract/Memorandum of Sale, this Condition of Sale shall constitute one binding legal contract between the Legal Owner and the Purchaser.
- H. A right to accept bid on behalf of the Legal Owner is expressly reserved by the Auctioneer. The Auctioneer may, without giving reason, refuse to accept the bid of any person and may decline the offer for any lot or withdrawn any lot from the sale. In furtherance thereto, the Auction House has the absolute discretion to refuse admission of / remove any person from the auction premises (including the participation of auction conducted electronically).
- I. All information contained in the Auction List shall only serve as reference purpose, and shall by no mean constitute as representation to enter into a legal contract. Statements made by the Auction House or as provided in the 'remarks column' in the Auction List by the Legal Owner are merely best data and facts about the Vehicles that are available to the

Auction House/Legal Owner and shall not be replied upon by the Bidder as definitive statements.

- J. The Vehicles may contain further inherent defects not specified in the 'remarks column'.
- K. Vehicles identified as 'engine number tampered', 'chassis number tampered' and 'cut and joined' are sold as scrap, without warranties as to the Vehicle's title and transfer of ownership registrability.
- L. All Bidders are advised to inspect the vehicle(s) prior to the sale and shall verify the information being so contained in the Auction List with relevant Authorities.
- M. The Bidders acknowledge the fact that in view of the nature of this auction, the Auction House and Legal Owner had not verified the condition, status, roadworthiness, state of defects, repairs and rectification required for the Vehicles.
- N. The Auction House and Legal Owner shall not be responsible or liable for repair/rectification of any existing defects in the Vehicles.
- O. Purchaser shall indemnify the Auction House, Auctioneer, and the Legal Owner all liability arising from contract, tort, or any theory of law.
- P. Any error, miss-statement or wrong description of the Vehicle in any documents related to this auction shall NOT annul or invalidate the auction not the same shall grant any rights to the Bidder to make any claim in respect thereof.

2.0 Regulation of Sale

- A. All intending Bidders are required to Earnest Deposit with the Auction House a minimum sum of RM1,600.00 (hereinafter referred to as "Earnest Deposit") (of which the Earnest Deposit were inclusive of RM1,000.00 as refundable auction Earnest Deposit, RM600.00 as auction premium) by Bank Draft, Cash or Credit Card only in favor of Smart Bid Auction Sdn Bhd and is required to sign a registration form prior to the auction sale. Only an Account Holders are allowed to pay the Earnest Deposit of vehicle(s) by the company's cheque and subject to the terms and conditions.
- B. Any Bidder who intends to bid on behalf of another person / body corporate / business entity ("**the Principal**") is required to provide the Auction House an authority letter from the Principal 2 days prior to the auction date. Such letter shall contain the identity details of the Principal and shall grant authority to the said Bidder to execute all documents related to this auction.
- C. The Auction House reserves all right to determine the amount of Earnest Deposit from time to time without any prior notice to bidders.
- D. Any intending bidder who intends to bid on behalf of another person, body corporate or firm is required to Earnest Deposit with the Auctioneer prior to the auction sale a letter authorizing the intending bidder to act on behalf of the other person, body corporate or firm and to sign all relevant documents in connection to the purchasing of the vehicle(s) via auction.
- E. Bidders are acknowledged that the Vehicles auctioned are used second-hand Vehicles which may contain various defects and in less than satisfactory condition as a result of the Vehicles use by the previous owners. The Bidder shall be deemed to have full knowledge of the condition, status, state of defects, repairs and rectification required for the Vehicles.
- F. Before the auction, Bidders are reminded to:

- I. Inspect the Vehicles at their own cost and expense at the time and venue designated by the Auction House / Legal Owner;
- II. make verification as to whether any summons were issued by the Authorities;
- III. make independent verification with the Authorities as to the accuracy of the Vehicles' details, identification marks, make, type, model, version, year of manufacture and other relevant particulars;

so as to satisfy themselves completely of the exact condition, state of defects, repairs required and status of the Vehicles.

- G. All intending bidders shall show their intention to offer by clicking on the 'offer button' during the auction process, failing which the Auctioneer shall have right not to accept their offer to bid. Bidders shall not retract his bid after their offer has been accepted by the Auctioneer.
- H. The bids are subject to the reserved price (hereinafter referred to as the 'Reserved Price') to be determined by the Legal Owner as announced by the Auctioneer at the auction process.
- I. The highest bidder, being so allowed and announced by the Auctioneer, shall be the actual Purchaser.
- J. No bid price shall be lower than the reserve price set by the Legal Owner or the previously made bid price. Bidders are not allowed to retract their bid.
- K. The Bidder with the highest bid as announced by the Auctioneer after the fall of the hammer shall be deemed to be the purchaser ("**Purchaser**") of the Vehicle auctioned and the highest bid shall be purchase price ("**Purchase Price**") of the Vehicle.
- L. The Auctioneer reserves the right to regulate the bidding and shall have the sole right to refuse any bids without giving any reason for such refusal. If any dispute shall arise as to the highest bid, the Auctioneer may determine the dispute and the vehicle shall, at the option of the Auctioneer be put up again for sale or put the vehicle at the last undisputed bid and the decision of the Auctioneer shall be final.
- M. The Auctioneer may, at his absolute discretion, carry out the bidding in such a manner as he/she may decide, divide or withdraw any vehicle(s), vary the order in which the vehicle(s) is/are offered for sale, combine any two or more vehicles, re-auction any unsold vehicle(s) at the same auction or adjourn the auction sale of the vehicle(s) to another date and, in the event of dispute, re-commence the bidding of any vehicle(s).
- N. The sale of the vehicle(s) in the auction is subject to Section 18(4) (a) of the Hire Purchase Acts 1967 (Act 212) (if applicable) and that the right to bid on behalf of the Hirer under a Hire Purchase Agreement is reserved whereby the Hirer or anyone person on his behalf may bid at the auction.
- O. In the event that the purchaser refuses to sign the Contract after the fall of the hammer, the Earnest Deposit paid earlier by the bidder shall be forfeited by the Auction House and the vehicle shall forthwith be again put up for sale or the Auctioneer may decide to adjourn the auction sale to another date.
- P. The Auction House and the Auctioneer has absolute discretion, to refuse admission or attendance of any person to the premises or bidding at the auction.

2A. EXTRA REFUNDABLE SECURITY DEPOSIT

- A. For Malayan Banking Berhad auction articles with reserve price from RM5,000-00 and below, an extra refundable security deposit of RM1,000-00 ("**Extra Security Deposit**") is to be collected together with the amount stated in Clause 2.0A from the successful bidder.
- B. The Extra Security Deposit will be refunded after the proof of transfer of ownership being so presented to Malayan Banking Berhad.

3.0 VEHICLE(S)

- A. All Vehicles sold at this auction are strictly on an 'as is where is' basis, without any warranty whatsoever. All implied terms and conditions, warranties on merchantability, roadworthiness, registrability, free from encumbrances and fitness for a particular purpose of the Vehicles, are hereby excluded from this terms and conditions. All implied warranties under the Sale of Goods Act are specifically and expressly negated and excluded in this auction.
- B. Bidders will be given a fair opportunity to view and inspect the Vehicle 2 days prior to the date of the sale.
- C. All intending bidders are recommended to conduct relevant search with relevant Government Agencies at their own cost to verify status of the said vehicle(s). No error or omission or misdescription of the vehicle(s) shall invalidate the sale of the vehicle(s).
- D. The vehicle(s) is/are believed and shall be taken to be correctly described and is/are sold subject to all express conditions, restriction in interest, easement, tenancies, charges, covenants, assignments, liabilities, encumbrances and rights subsisting thereon without obligation to define the same respectively and the Purchaser shall be deemed to have full knowledge of the status and condition of the vehicle and no error, mis-statement or mis-description shall annul the sale and any compensation shall not be allowed in respect thereof.
- E. After the fall of the hammer, the Auction House or the Auctioneer shall not be responsible for any defect, loss or damage to the vehicle(s) whether caused by negligence, wear and tear or otherwise. Ownership of such vehicles shall not be assumed until full payment in respect thereof has been made in full.
- F. The Purchaser shall be liable for the payment of all summonses and penalties payable on the vehicle(s) issued before or after the Vehicle(s) being auctioned.
- G. The Legal Owner and/or the Auction House offer no warranty as to
 - i. The road worthiness of the vehicle(s)
 - ii. The availability of the existing or new registration card of the vehicle(s). and
 - iii. The registration of transfer of vehicle(s) purchased at the auction with the relevant authorities.

4.0 PAYMENT

- A. Immediately after the fall of the hammer, the Earnest Deposit pursuant to Clause 2.0 A. above shall be treated as part payment of the purchased price and the Purchaser shall execute the Contract.

- B. The balance purchased price (the Purchase Price less Earnest Deposit) shall be paid in full by the Purchaser to the Legal Owner and being duly receipt by the Legal Owner within the Allowed Payment Period as stipulated in the Contract from the date of the auction sale any payment method that the Legal Owner deemed fit. However, the Allowed Payment Period may be extended by the Legal Owner at its absolute discretion upon request in writing by the Purchaser before expiry date provided if any extension is granted, the Purchaser shall pay the Legal Owner charges and interest at the rate to be determined by the Legal Owner at its absolute discretion on the balance purchase price calculated on daily basis until full payment of such amount on or before the extended expiry date.
- C. In default of such payment of the balance of purchased price or any interest payable for any extension of time which may be granted for the payment of the balance purchased price within the Allowed Payment Period in the manner as stipulated in the above clause, the Security Earnest Deposit paid pursuant to Clause 2.0 A. above shall be forfeited by the Legal Owner and the vehicle may be put up for resale by the Legal Owner at its sole discretion. The cost of such resale together with either the deficiency in price (if any), which may result from a re-sale, or the balance of the purchase price if there is no resale shall be recoverable from the defaulting Purchaser as the case may be.

5.0 TRANSFER OF DOCUMENTS

- A. Upon full payment of the purchased price, the Legal Owner shall execute or cause to be executed at the Purchaser's cost and expenses (such as transfer fees, stamp duty, taxes and registration fees) a Memorandum of Transfer (Form K3) in respect of the vehicle(s) in favor of the Purchaser. Thereafter and upon the Purchaser's payment of all such cost and expenses of the transfer, the Legal Owner shall deliver to the Purchaser all transfer documents (if available and applicable), and the Purchaser shall immediately procure for the registration of himself as the owner of the vehicle(s) with the relevant authority.

5A. TRANSFER OF RISK & LIABILITY

- A. Upon the execution of Contract, the Vehicle shall be under the Auction house custody at the sole risk of the Purchaser. However, ownership of the Vehicle shall only pass to the Purchaser upon full payment of the Purchase Price.
- B. The Auction House shall be entitled to charge the Purchaser for storage charges if the Vehicle is not collected from the Auction House' storage facility within the Payment Period as stipulated in the Contract.
- C. The Purchaser shall be responsible for payment of all and any summonses, fines and penalties payable to the any of the Authorities by the previous hirer of the Vehicle.
- D. The Purchaser shall indemnify the Auction House, the Legal Owner and the previous Hirer from all claims, damages, losses and proceedings for all summonses, fines and penalties payable to the Authorities on the Vehicle after taking delivery of the Vehicle notwithstanding the Vehicle's transfer of ownership to the Purchaser is not effected.

6.0 NON-REGISTRATION OF TRANSFER

- A. The Purchaser shall transfer the ownership before making any repairs on the vehicle(s) and no claim will be entertained for any repairing cost and other related expenses of the vehicle(s) in the event transfer of ownership failed to be affected.
- B. Upon full payment of the balance purchase price, storage charges including late payment charges (if any), the Purchaser at his own costs and expense shall take delivery of the Vehicle purchased, from the Legal Owner. Puspakom inspection VR1 on the Vehicle shall be conducted at Purchaser's costs at the storeyard before the Purchaser takes delivery of the Vehicle, failing which any refund claims will not be entertained. Upon taking delivery of the vehicle, Purchasers shall conduct the Puspakom B5 inspection at its own cost.
- C. Thereafter, the Seller shall execute at the Purchaser's costs and expense the transfer form (Form K3) in favour of the Purchaser or the Principal only and provide the registration card of the Vehicle (if any). In the event the Vehicle's registration card is not available with the Legal Owner, the Purchaser at his own costs shall apply for the same with the Authorities.
- D. The Purchaser can claim for refund of the Purchase Price from the Legal Owner, subject to and only in the following circumstances:
 - i. if the Vehicle's ownership transfer cannot be registered due to the Vehicle being under criminal investigation by the Authorities,
 - ii. If the Vehicle's ownership transfer cannot be registered, when the Vehicle was originally not identified as 'engine number tampered', 'chassis number tampered' and 'cut and joined' in the remarks column in the Auction List;
 - iii. the non-registrability of the Vehicle's ownership transfer is not due to any reasons attributable to the Purchaser;
 - iv. receipt of original documentary evidence from the Authorities, where the inspection of Authorities is carried out before the redemption of auction unit out from the store yard compound, confirming that the non-registrability of the Vehicle's ownership transfer for reasons stated in (i) & (ii) above from the Purchaser to Legal Owner;
 - v. The claim of refund shall only be limited to the Earnest Deposit and Buyer Premium paid by the Purchaser;
- E. If the transfer of ownership of the vehicle(s) cannot be affected with the relevant authority for any reason whatsoever within thirty (30) days from the date the purchased price is fully paid together with interest (if any) and all other payment due hereunder, and subject to the written consent of the Legal Owner, the purchased price shall be refunded free of interest with the condition that the Purchaser produce satisfactory evidence to the Legal Owner that all reasonable remedial action has been exhausted and THAT the non registration is due to no fault of either party.
- F. Notwithstanding the above, no refund shall be made:
 - i. If the claim for refund is not submitted to the Legal Owner and/or the Auction House within fourteen (14) days from the date the purchase price is fully paid with interest (if any) and all other payment due hereunder;.
 - ii. If the transfer of ownership cannot be performed or registered due non-payment of summonses or penalties payable to the relevant authorities;
 - iii. if the Authorities gave a conditional approval for the Vehicle's transfer of ownership registration, under which transfer of ownership registration can be made

- if any defects / parts of the Vehicle were to be rectified / replaced. (costs and expenses for such rectification / replacement shall be borne by the Purchaser)
- iv. any act/omission by the Purchaser or his agents, servants or employees which had resulted in defects, loss, damages or seizure/forfeiture of the Vehicle by the Authorities after the delivery of the Vehicle to the Purchaser; and
 - v. On the basis of the conditions of the vehicle(s) as the sale is on 'as is where is' basis and state in which it was on the auction date as Clause 3.0 A.

7.0 DELIVERY OF VEHICLE(s)

- A. The Purchaser shall after the full payment of the balance of the purchase price, at his own cost and expenses take possession of the vehicle(s) without any obligation on the part of the Auction House, the Auctioneer or their respective servants or agents to deliver the sold vehicle(s).

8.0 TIME TO BE OF THE ESSENCE

- A. Time shall be of the essence of this Condition of Sale.

9.0 WARRANTY AND REPRESENTATION

- A. The Auction House, the Legal Owner, the Auctioneer or their respective servants or agents shall under no circumstances be liable to any bidders or purchasers for any kind of loss or expenses suffered or incurred by the bidders or purchaser arising out of or in connection with or in respect of the sale for any reason whatsoever. The sale of the vehicle(s) will not in any way render the Auction House, the Legal Owner, the Auctioneer or their respective servants or agents liable for its loss, damage or destruction before, during or after the said sale either by theft, fire or any cause whatsoever.

10.0 VARIATION OF TERMS AND CONDITIONS

- A. The Auction House reserve the sole right to vary, amend, change, alter or make addition or deletion to any of the terms and conditions herein or to postpone, call-off or adjourn the Auction Sale at any time prior to the date of the auction with or without notice without having to provide any reasons or grounds whatsoever.

11.0 COMMUNICATIONS AND NOTICES

- A. Each communication and notices shall be made in writing which include but not limited to:-
 - i. Facsimile;
 - ii. Electronic mail; or
 - iii. Post.

The Addendum serve as special terms and shall supersede and replace all relevant terms stipulated in the Terms of Sale (APPLICABLE ONLY FOR EACH MENTIONED LEGAL OWNER) ***

ADDENDUM A