

When you apply to become a Registered Bidder, you are making representations to each member of the Manheim Group and also agreeing to the following important conditions. You should ensure you have read this Agreement prior to registering and making any bid or submitting any tender at a Manheim Sale. If you bid or submitting any tender at any Manheim Sale you will be subject to this Agreement.

## TERMS AND CONDITIONS FOR ONLINE BIDDING AND SALES AT MANHEIM LIMITED

*These Terms and Conditions are current at 19 July 2024*

### 1. USE OF WEBSITE

#### 1.1 Access to Online Sales

1.1.1 Your viewing and use of the Website and the Online Sales System is governed by and subject to You agreeing to this Agreement.

1.1.2 By applying to become a Registered Bidder, logging onto and using the Website and the Online Sales System, making or purporting to make a Bid at any Auction Sale including via a 'BidNow' or similar offering, or submitting or purporting to submit a Tender at any Tender Sale including any online Tender, You irrevocably submit that You:

- (a) have read, understood and will comply with this Agreement;
- (b) agree to be bound to this Agreement;
- (c) have examined to the best of Your ability and knowledge all information relevant to the risks, contingencies and other circumstances affecting the Website and Online Sales System;
- (d) have had an opportunity to clarify any questions or issues in relation to the Website or the Online Sales System. You may enquire by telephoning the Manheim Service Desk 0800408488 Option3;and
- (e) acknowledge and agree Manheim is acting as an agent for the Seller. If any dispute arises in relation to the supply of an Item(s) (whether before or after Manheim has paid the Seller the proceeds of any sale) the dispute will be between the prospective buyer and the Seller and You acknowledge and agree Manheim will be excluded from any subsequent action or court proceedings. If Manheim is subsequently included in any such action or proceedings, You agree to indemnify Manheim for any liability or costs incurred by Manheim in relation to such action or proceedings.

### 2. REGISTRATION OF BIDDERS

2.1 Bidders must be registered to participate in Sales.

2.1.1 A person may not participate in a Sale as a Bidder at an Auction Sale or by submitting a Tender unless the person is a Registered Bidder under clause 2.2.

2.2 Applications for Registration

2.2.1 You may apply to Manheim to become a Registered Bidder to participate in Sales by completing the online application form (**Application**).

2.2.2 By submitting an Application to Manheim, You represent and warrant to Manheim that all information provided by You to Manheim is complete and accurate.

2.2.3 Manheim may accept or reject an Application in its absolute discretion by notice to You. If Manheim accepts the application, You become a Registered Bidder for the purposes of this Agreement.

2.2.4 Manheim will require You as a Registered Bidder to provide your credit card details before providing You access to the Online Sales System. You are required to maintain current credit card details while You are a Registered Bidder.

2.2.5 If the Registered Bidder fails to comply with any of the terms and conditions, Manheim reserves the right to be reimbursed for all costs, fees and charges pertaining to an Online Sale. Manheim will apply these costs, fees and charges against the credit card details provided in clause 2.2.4. In the event a credit card is not available, Manheim is entitled to be paid any costs, fees and charges pertaining to the Online Sale on demand.

2.2.6 Registered Bidders have access to the Website and the Online Sales System for the purpose of participating in a Sale only and provided they comply with this Agreement at all times.

2.3 Use of login and password

If Manheim provides You (or an individual who You nominate) with a login and password to use the Online Sales System You:

2.3.1 acknowledge that the login and password are for the personal use of the named entity;

2.3.2 agree to maintain the confidentiality of the login and password both separately and as a pair;

2.3.3 agree not to disclose the login or password to any other person;

2.3.4 agree, where a login and password are provided to an individual at Your request, to ensure that the individual complies with clauses 2.3.1 to 2.3.4;

2.3.5 accept full responsibility and indemnify Manheim for any expenses, loss, damage, costs, demands or liabilities incurred by Manheim directly or indirectly, out of or in connection with, the use, including (without limitation) any improper or unauthorized use of the login and password;

2.3.6 agree to only access the Website and Online Sales System for legitimate and lawful purposes and in accordance with any instructions or directions given to You on the Website or Online Sales System from time to time; and

2.3.7 agree and acknowledge that Manheim may, in its absolute discretion, withdraw or restrict your access to the Website or Online Sales System at any time and without reason, explanation or prior notice.

### 3. TERMS AND CONDITIONS OF SALE

#### 3.1 Definition of Auction or Tender Sales

Prior to the commencement of the Sale Process for an Item, Manheim may nominate that the Item is for sale by Auction Sale or Tender Sale.

#### 3.2 Auction Sales

All Auction Sales conducted by or in conjunction with the Online Sales System are subject to Annexure A- Online Auction Sales Terms and Conditions.

#### 3.3 Tender Sales

All Tender Sales conducted by or in conjunction with the Online Sales System are subject to Annexure B- Online Tender Sales Terms and Conditions.

#### 3.4 Registration

All Items are sold as unregistered unless expressly stated to the contrary.

3.5 You must disclose to Manheim at the time of becoming a Registered Bidder and prior to any Bid or Tender, that there is an intention to purchase an item for export purposes. Your ability to purchase an Item in this manner is at the discretion of Manheim and subject to the Seller's consent. In the event this type of purchase is permitted you are required to comply with all legislated disclosure requirements and Manheim's reasonable directions.

### 4. SUSPENSION OF SERVICE

#### 4.1 No Warranty or Representation of Availability

Manheim expressly disclaims any representation or warranty that the Online Sales System will be available for use by You at all times or at any particular time, during and for the duration of any particular Sale Process or at all.

#### 4.2 Interruption to Service during Sale Process

If the Online Sales System is interrupted (for any reason during a Sale Process (whether by way of suspension by Manheim under clause 4.3 or otherwise) Manheim may, but is not obliged to, declare the Sale Process void and recommence the Sale from the beginning.

#### 4.3 Suspension of Service

4.3.1 Manheim may from time to time suspend the provision of the Online Sales System.

4.3.2 Where possible, Manheim will notify You in advance of the time and duration of any suspension of the Online Sales System, but does not represent or warrant that it will do so on every occasion, on any particular occasion or any occasion at all.

### 5. LIABILITY AND INDEMNITY

#### 5.1 Necessary Authority

If You make use of the Online Sales System, whether for You or another person, You acknowledge and warrant to Manheim that:

5.1.1 You have the full authority to engage in the transactions You undertake;

5.1.2 You will be liable for all costs, fees, charges and other amounts which may become payable to Manheim or any other person as a result of the use of the Online Sales System;

5.1.3 You are properly authorised to provide Manheim with any information which You provide;

5.1.4 You are not breaching any obligation of confidence or any requirement of any applicable law relating to the privacy of Personal Information by providing the information to Manheim; and

5.1.5 all information You provide to Manheim is true and complete to the best of Your knowledge.

5.2 Manheim shall not be responsible for any damage to property or injury to persons incurred during the removal of Items.

5.3 Subject to clause 5.6, the Registered Bidder is not entitled to cancel any transaction on the basis that the Items were not accurately described.

5.4 Subject to clause 5.6, all Items, having been made available for inspection prior to Sale, are offered for sale 'as is, where is' with all faults (if any).

5.5 Exclusion of representations

As a Registered Bidder making a Bid or submitting a Tender in accordance with this Agreement, You do so on the basis that:

5.5.1 No member of Manheim Group makes any representation concerning the Online Sales System; and

5.5.2 You do not rely on:

- (a) any representation, letter, document or arrangement whether oral or in writing; or
- (b) any other conduct, as adding to or amending this Agreement.

5.6 No Exclusion of Legislation

To the full extent permitted by law, and notwithstanding the contents of or any description given in any catalogue, advertisement, Road Test Report, engineers' report or other materials issued by any member of the Manheim Group, all conditions, warranties, guarantees (including without limitation as to the condition, quality, fitness for purpose, merchantability or compliance with description of an Item), rights, remedies, liabilities and other terms implied or imposed on any member of the Manheim Group by statute, custom or the common law are excluded from this Agreement. In entering into this Agreement (unless a supply under this Agreement is a supply of goods or services to a consumer within the meaning of the Consumer Guarantees Act 1993 (CGA)) we both confirm, acknowledge and agree that;

- a) we are each 'in trade';
- b) the goods and services provided under this Agreement are supplied to you and acquired by you in trade and for a business purpose; and

the statutory guarantees and implied terms, covenants and conditions contained in the CGA are excluded to the fullest extent permitted at law, and do not apply.

If a supply under this Agreement is a supply of goods or services to a consumer within the meaning of the CGA, nothing contained in this Agreement excludes, restricts or modifies the application of any provision, the exercise of any right or remedy, or the imposition of any liability under the CGA.

5.7 You acknowledge that You are responsible for conducting a search of the Personal Property Securities Register (PPSR) maintained pursuant to the Personal Property Securities Act 1999 (PPSA) to ascertain whether any security interests are recorded in relation to the Item.

5.8 You acknowledge that any information provided by Manheim in relation to any Item reflects the information provided to Manheim by the Seller, and Manheim has not independently verified its completeness or accuracy. Manheim does not give any warranty as to the completeness or accuracy of any information provided to You about any sale of Items, including without limitation any information in relation to the distance travelled by a vehicle or its machine or engine hours and Manheim will not be liable for any loss, damage, cost or expense suffered or incurred by a buyer arising out incorrect or incomplete information. You agree to independently verify any information which is important to Your purchasing decision.

5.9 The Seller represents and warrants to You and Manheim that the Item is not subject to a security interest of any kind including without limitation under the PPSA (other than a security interest in favour of the Seller which will be released at or prior to the time title in the Item is intended to pass to You).

5.10 Limitation of Liability

5.10.1 To the full extent permitted by law and subject to clause 5.6, neither the Seller nor Manheim will be liable for any loss, damage, cost or expense suffered or incurred by a purchaser arising out of a Tender, negotiation, sale or purchase of an Item.

5.10.2 Subject to clause 5.6, You agree and acknowledge that no member of the Manheim Group accepts any liability or responsibility to You or any third party arising from any indirect or consequential loss, damage or expense of any kind or nature and You release and forever discharge each member of the Manheim Group from any such liabilities and any claims, demands or causes of action in respect thereof.

5.10.3 Subject to clause 5.6, no member of the Manheim Group accepts any responsibility for any interpretation which may be placed upon the information provided to You.

5.10.4 Subject to clause 5.6, any deficiency in the Items sold shall not vitiate the sale, but neither the Seller nor Manheim shall be bound to deliver more than is in their possession.

## 5.11 Indemnity

Subject to clause 5.6, you agree to indemnify each member of the Manheim Group for the full amount of any claim, suit or demand and all costs of such a claim, suit or demand (including, without limitation, legal costs on a full indemnity basis) made by You or any other person in relation to a Sale or Your use of the Online Sales System or the Website. This clause 5.11 survives termination of this Agreement for any reason and does not merge upon completion.

## 5.12 Circumstances beyond Manheim Group's reasonable control

No member of the Manheim Group is responsible for or otherwise liable for any delay in, or failure of, performance to the extent that any delay or failure is due to circumstances beyond its reasonable control including, without limitation, strikes, lockouts and other industrial disputes, breakdown of systems or network access, flood, fire, explosion or accident including any failure to receive a Tender in a Tender Sale.

5.13 Subject to clause 5.6, if any dispute arises with the Seller, You agree to allow Manheim to attempt to mediate and resolve the matter with the Seller, and:

(a) If Manheim determines that the most appropriate resolution of the matter is the cancellation of the sale and refund of the purchase monies paid, You will have no further claim or recourse against Manheim or the Seller upon refund of the purchase monies; and

(b) You will not institute other action or proceedings unless Manheim has advised that it is unable to assist further in the resolution of the matter, or has failed to resolve the matter within a reasonable period of time having regard to all circumstances.

## 6. PRIVACY

### 6.1 Privacy Policy

By accessing and using this Website and engaging in online bidding, You agree to be bound by the terms of our Privacy Policy in relation to the collection, use, disclosure and storage of Your personal information.

## 7. TERMINATION

### 7.1 Termination by Manheim

Manheim may terminate this Agreement and cease to provide access to the Online Sales System to You immediately by giving notice to You.

### 7.2 Termination by You

You may cease to remain a Registered Bidder by notice in writing by email via the website account or by mail to Manheim, provided that You do not have any active or outstanding Bid or Tender in the Online Sales System. Any purported termination of this Agreement by You does not release You from, or affect, any accrued obligation under this Agreement.

### 7.3 Consequences of Termination

Upon termination of this Agreement for any reason:

7.3.1 You must immediately cease to use the Online Sales System;

7.3.2 any amounts You owe to Manheim, whether under this Agreement or otherwise become immediately due and payable; and

7.3.3 You must destroy or delete any copy of the Online Sales System or any information collected from the Online Sales System You have in Your possession or under Your control.

## 8. BIDS AND TENDERS

8.1 All Bids or Tenders submitted must be bona fide and must not be fixed or adjusted in collusion (or otherwise in accordance with any arrangement or agreement) with any third party including but not limited to providing information relating to intended Bids or Tenders or attempting to manipulate the Sale Process in any way, or otherwise contravene or attempt to contravene the Commerce Act 1986.

8.2 You must not give or offer anything to Manheim or any employee or agent of Manheim or their families as an inducement or reward, which could in any way tend to influence the actions of that person in relation to an Auction Sale or Tender Sale.

8.3 A Bid or Tender is taken to be a representation and warranty that the Bid or Tender is a genuine offer to purchase the Item at the price specified. If any member of the Manheim Group becomes aware or suspects of any form of collusive activity by a Registered Bidder, Manheim may terminate the Registered Bidder's right to participate in the Sale Process, or if the Registered Bidder's Bid or Tender has been accepted by Manheim, Manheim may terminate any contracts that were entered into by the Registered Bidder relating to the Bid or Tender.

8.4. All Bid or Tender prices are to be GST inclusive unless the owner of the Items is not registered or required to be registered for GST (in which case no GST is payable on the sale of the Item). Items to be sold on behalf of owners not registered or required to be registered for GST will be separately identified in the Online Sales System.

## 9. ROAD TEST REPORTS

9.1. Where or when offered Road Test Reports (excluding Truck & Machinery Auctions and Salvage Vehicle Auctions), are prepared by or on behalf of Manheim as a result of a brief road test undertaken prior to Auction Sale or Tender Sale, and are intended as a guide only (Road Test Report). Subject to clause 5.6, no warranty or guarantee concerning known or unknown faults is given or implied in relation to the Item the subject of the Road Test Report. The report covers no items capable of visual inspection. Vehicles sold with a Road Test Report are still sold subject to clause 5.4.

## 10. CANCELLATION DUE TO ERROR

10.1. The Registered Bidder accepts that despite our reasonable precautions, Items may be listed at an incorrect price or with incorrect information.

10.2. Manheim reserves the right to cancel any purchase transaction, even if the Registered Bidder has paid the purchase price for the Items. We reserve this right up until the time the Registered Bidder collects the Items. If we exercise this right, we will refund to the Registered Bidder any purchase price that the Registered Bidder has paid.

## 11. ADDITIONAL TERM AND CONDITION FOR TRUCK AND MACHINERY ITEMS OR WHERE ITEMS ARE PURCHASED FOR BUSINESS USE:

11.1. Manheim does not warrant that any electrical or mechanical appliance, plant and/or equipment (collectively, Plant and Equipment) complies with the requirements of any occupational health and safety laws (OHS Laws). Where practical to do so and where the Plant and Equipment is likely to be used in a workplace, Manheim has requested that the Seller display a statement on the Plant and Equipment to indicate the safety condition of the Plant and to supply certificates, operational manuals, etc, which may exist for the particular Plant and Equipment. If the Plant and Equipment purchased does not include this information, upon the request of a buyer, Manheim will use its reasonable efforts to obtain this information from the Seller. By law, a buyer of any Plant and Equipment for use in a workplace must ensure it complies with OHS Laws before it is used. Heavy penalties apply for non compliance. A summary of the occupational health and safety requirements is available from <http://www.business.govt.nz/worksafe>.

## 12. ADDITIONAL TERM AND CONDITION FOR SALVAGE VEHICLE OR NON MOBILE VEHICLES:

12.1. Subject to clause 5.6 and in addition to clauses 5.4, Manheim does not accept any responsibility for damage sustained to Items through the normal use of forklifts or other equipment to load, unload and shift damaged and non mobile Items.

## 13. ANCILLARY COSTS

13.1 All costs associated with the purchase of an Item, including but not limited to duties, taxes, Item removal, transport, decommissioning and/or storage costs are to be paid by the buyer and are separate and distinct from the purchase price.

## 14. INSTANT SALVAGE

14.1 By submitting a Bid on an Instant Salvage Item, you acknowledge and agree that:

- 14.1.1 Instant Salvage Items are available to a closed buyer group and are not available in a general public auction;
- 14.1.2 Instant Salvage Items are not available for inspection;
- 14.1.3 You may not directly contact the Seller of an Instant Salvage Item. All communication must be completed through Manheim;
- 14.1.4 Manheim (or its agent) will arrange the delivery of all Instant Salvage Items within 48 hours of receipt of payment in cleared funds. You agree that you will not arrange any type of collection, delivery and/or transport for any Instant Salvage Items;
- 14.1.5 You agree that you will be available at the time of delivery and that any costs incurred as a result of failed delivery will be billed to you;
- 14.1.6 You will be responsible for the costs of delivery of Instant Salvage Items and these costs will be added to your invoice;
- 14.1.7 Payment must be made within 24 hours of Manheim issuing the invoice;
- 14.1.8 If you fail to make payment within 24 hours of receipt of an invoice, Manheim reserves the right to terminate and/or cancel the Sale. Manheim's total liability to you in respect of the cancellation of the Sale

is limited to refunding you the amount actually paid by you where payment was made but was not received on time. If no payment was made, Manheim has no liability to compensate you for the cancellation of the Sale.

- 14.1.9 Any additional terms and conditions outlined in the promotional material (including online material) or in the Online Sales System or Invoice for an Instant Salvage Item form part of these Terms.

## 15. GENERAL

### 15.1 Notices

15.1.1 Manheim may give You notice of any matter or thing required or permitted to be notified to You under this Agreement by either:

- (a) sending You an electronic mail message to an electronic mail address nominated by You; or
- (b) posting the notice to the Website.

15.1.2 Such notice takes effect and is deemed served from the time the electronic mail message leaves the Manheim system or is visible on the Website, as the case may be.

### 15.2 Governing Law

This Agreement shall be governed by and construed in accordance with the laws of New Zealand and the parties submit to the non-exclusive jurisdiction of the courts of New Zealand.

### 15.3 Personal Knowledge

A reference to a matter being to the knowledge of a person means the matter is to the best of the knowledge and belief of the person after making proper enquiry including enquiry which a reasonable person would be prompted to make by reason of knowledge of a fact.

#### 15.4 Severance

If any provisions of this Agreement are found to be invalid or unenforceable, then that provision will be read down or severed and that invalidity or unenforceability does not affect the validity or enforceability of the other terms and conditions.

#### 15.5 Whole Understanding

This Agreement represent the entire understanding between You and Manheim.

#### 15.6 Variation of this Agreement

15.6.1 Manheim may amend this Agreement (including any fees charged by Manheim to You) at any time by giving You at least 30 days' notice, either by sending a notice of variation to your email or postal address (as set out at the time of your registration) or by posting the notice of the variation to the Website (Notice of Variation).

15.6.2 If You do not agree to the bound by the varied Agreement, You may, subject to clause 7, terminate this Agreement by notifying Manheim in writing within 30 days of the Notice of Variation.

15.6.3 If You do not notify Manheim within 30 days of a Notice of Variation that You wish to terminate this Agreement, You agree to be bound by the Agreement as varied.

#### 15.7 Waiver and Exercise of Rights

15.7.1 A single or partial exercise or waiver of a right relating to this Agreement does not prevent any other exercise of that right or the exercise of any other right.

15.7.2 Subject to clause 5.6, no party will be liable for any loss or expenses incurred by another party caused or contributed to by the waiver, exercise, attempted exercise, failure to exercise or delay in the exercise of a right.

#### 15.8 No Relationship

No party to this document has the power to obligate or bind any other party. Nothing in this document will be construed or deemed to constitute a partnership, joint venture or employee, employer or representative relationship between any of the parties.

#### 15.9 Survival of Indemnities

Each indemnity in this document is a continuing obligation, separate and independent from the other obligations of the parties and survives termination of this document.

#### 15.10 Enforcement of Indemnities

It is not necessary for a party to incur expense or make payment before enforcing a right of indemnity conferred by this document.

#### 15.11 No Merger

The warranties, undertakings, agreements and continuing obligations in this document do not merge on completion.

#### 15.12 Rule of Construction

In the interpretation of this document, no rule of construction applies to the disadvantage of the party preparing the document on the basis that it put forward this document or any part of it.

#### 15.13 Interpretation

In this Agreement, a reference to a statute, includes regulations under it and consolidations, amendments, re-enactments or replacements of any of them.

### 16. DEFINITIONS

In these terms and conditions, unless expressed or implied to the contrary:

Agreement means this document and includes all Schedules and Annexures to it.

Online Auction Sales Terms and Conditions means the terms and conditions under which Auction Sales under this Agreement will be conducted as set out in Annexure A.

Auction Sale means a sale or prospective sale by auction including via a 'BidNow' or similar offering, of an Item conducted by way of the Online Sales System in accordance with this Agreement including the Online Sales Terms and Conditions.

Bid means an offer to purchase an Item at a specified price in an Auction Sale.

Bidder means a person who has made or purported to make a Bid.

Business Day means a day that is not a Saturday, Sunday, or public holiday in Auckland, New Zealand.

Buyer Administration Fee also referred to as Buyer Auction Fees means fees payable by Buyer on successful bid



Item means any good made available for purchase by Auction Sale or Tender Sale under the terms of this Agreement.

Manheim means Manheim Limited.

Manheim Group means Manheim and each related company (as that term is defined in section 2(3) of the Companies Act 1993) of Manheim and any agent, officer or employee of any of them.

Offer means a response to a Tender.

Online Sales Terms and Conditions means the terms and conditions under which Auction Sales under this Agreement will be conducted as set out in Annexure A.

Online Sales System means the online system used by Manheim to perform Sales online.

Online Tender Sales Terms and Conditions means the terms and conditions under which Tender Sales under this Agreement will be conducted as set out in Annexure B.

Registered Bidder means a person who has agreed to be bound by the terms of this Agreement and been accepted by Manheim to participate in Sales under clause 2.

Sale means a sale, agreement to sell or prospective sale of an Item by Auction Sale or Tender Sale under this Agreement.

Sale Process means the process by which an Auction Sale or Tender Sale is conducted until the successful buyer's Bid or Tender (if any) is accepted by or on behalf of the Seller of the Item or the Item is withdrawn by Manheim.

Security Interest means 'security interest' as defined in the Personal Property Securities Act 1999 and any regulations under that Act.

Seller means the person selling an Item.

Tender means an offer to purchase an Item at a specified price in a Tender Sale.

Tender Sale means a sale or prospective sale of an Item by tender conducted by way of the Online Sales System in accordance with this Agreement including Annexure B-Online Tender Sales Terms and Conditions.

You and Your means the user of the website or the person using the Online Sales System including, without limitation, a Registered Bidder.

Website means this Website, located at the uniform resource locator <http://www.manheim.com.au>, and includes any part of this website.

## **ANNEXURE A - ONLINE AUCTION SALES TERMS AND CONDITIONS**

Unless otherwise defined, a defined term in these Online Auction Sales Terms and Conditions has the same meaning given to it in the Terms and Conditions for Online Bidding & Sales.

### **CONDUCT OF SALE**

1. Registered Bidders may submit Bids for Items offered for Auction Sale by proxy set prior to, or during the auction period Sales Process by using the Online Sales System. This is performed on this Website by submitting a "Submit Bid" request.

2. By submitting a Bid at an auction, the Bidder accepts and agrees to be bound by this Agreement and any special conditions announced by the Auctioneer prior to the auction.

3. A Bid will only be accepted by the auctioneer if it is higher than the preceding Bid.

4. The Online Sales System may incorporate a proxy bidding facility. The proxy bidding facility allows Registered Bidders to enter a maximum Bid amount for a particular Item, and an incremental Bid amount which the proxy bidding facility will automatically submit, to the Online Sales System on the Registered Bidder's behalf in response to a higher Bid submitted by another Bidder for that Item, until the maximum Bid amount specified by the Registered Bidder is reached.

5. All Items are subject to a reserve price unless otherwise stated.

6. Vendor bids are not permitted unless otherwise stated.

7. The auction period for an Item is completed upon the acceptance and declaration by Manheim of the highest Bid, whether by fall of the hammer or otherwise at the time and date nominated for that Item in the Online Sales System (**Auction Close**).

8. The Bidder submitting the Bid which at the end of the auction period is accepted and declared the highest Bid, will be the buyer at the price specified in the Bid, subject to Seller acceptance. If any dispute arises as to the last or highest Bidder, Manheim at its sole discretion, may auction or re sell the item again or negotiate with the next highest Bidder.

9. Manheim may hold a Bid and refer such a bid to the Seller before acceptance. Manheim reserves the right to further negotiate with the highest Bidder.



10. Manheim may refuse to accept any Bid or withdraw any Item from the Auction Sale.

#### **PAYMENT AND DELIVERY**

11. All buyers must at the conclusion of the auction period, if required to do so by Manheim, pay a deposit of 10% of the purchase price or \$500 whichever is greater in cash, bank deposit or bank cheque and pay the balance in cash, bank deposit, bank cheque or credit card (over the counter only), by 4.00 pm one Business Day after the sale (Completion). Manheim may deduct the deposit from the credit card provided at the time of registration. The deduction may occur immediately after auction. Dealers may purchase Items under deferred payment terms where this has been approved by Manheim. A failure to make full payment by 4:00pm one Business Day after the sale may incur a late payment fee.

12. In the case of non-payment of such deposit by a Bidder (Defaulter), the Item or Items may, at the option of Manheim, be auctioned or resold and Manheim may in its discretion, refuse to accept any Bid made by the Defaulter.

13. A buyer's administration fee (also referred to as buyer auction fee) and other fees may be payable by the buyer on Items sold by Manheim. The buyer's administration fee and other fees applicable to an Item is described in the Online Sales System. Where a fixed dollar amount is specified, the buyer's administration fee is inclusive of GST. Where a percentage is noted, the buyer's administration fee is inclusive of GST and will be calculated on the purchase price of the Item.

14. Title in the Items passes when Manheim receives notice of clear title and clear funds on the full payment for the Items.

15. Risk of damage to, and loss or destruction of, the Item shall pass to the buyer immediately on the acceptance and declaration by Manheim of the highest Bid, whether by fall of the hammer or otherwise at the time and date nominated for that Item by Manheim. Subject to clause 5.6, neither the Seller nor Manheim shall be accountable for any deficiency, damage or loss, which may arise thereafter.

16. The buyer will not be allowed to collect or remove an Item or any part of an Item until Manheim has clear title to the payment from the buyer in accordance with paragraph 11 of this Annexure A. All Items must be removed from the nominated storage premises by the buyer no later than 4:00pm one Business Day after Completion. Storage charges may apply on Items which remain uncollected after 4:00pm one Business Day after Completion.

17. The Registered Bidder is responsible for the payment of all delivery charges, if applicable.

18. If a Registered Bidder fails to comply with any of the terms and conditions in this Annexure A, any contractual right to be repaid for any money deposited by the Registered Bidder in part payment pursuant to paragraph 11 of this Annexure A shall be forfeited and all Items may be resold. The defaulting Registered Bidder will reimburse Manheim for all costs, charges and any difference in sale price consequent upon such resale.

19. At any time Manheim may, without any demand or notice, set off and apply any money deposited by the Registered Bidder pursuant to paragraph 11 of this Annexure A or any other indebtedness it owes to a Registered Bidder against any money owing to it by a Registered Bidder under this Agreement, whether or not the amount owed by Manheim or a Registered Bidder is immediately payable. The Registered Bidder irrevocably authorises Manheim to do anything necessary for that purpose.

#### **Annexure B- Online Tender Sales Terms and Conditions**

Unless otherwise defined, a defined term in these Online Tender Sales Terms and Conditions has the same meaning given to it in the Terms and Conditions for Online Bidding & Sales.

1. Tenders must be in writing and must contain all other information required.
2. You agree a Tender may not be withdrawn.
3. No Tender may be submitted after the time and date nominated by Manheim as the close date and time of the Tender (Closing Time).
4. Tenders must be lodged at Manheim in the manner specified on the Online Sales System and shall remain open of acceptance or decline by the Seller for a period of 30 days from the Closing Time.
5. The successful buyer, if any, will be notified by email, fax or post using the contact details provided at the time of registration as a Registered Bidder within 5 Business Days of the Seller notifying Manheim of any Tender acceptance. Unsuccessful parties may not be notified.
6. No contract is formed by the lodgement of a Tender.

#### **TERMINATION OR ALTERATION OF TENDERS**

7. Manheim may for its convenience at any time and at its sole discretion terminate the Tender Sale or any Tender, alter the Tender Sale or alter any Items. Manheim will notify You of material changes to the Tender Sale or Items or the termination of the Tender Sale. If You do not wish to continue with the Tender Sale after that time you must notify Manheim of same within 48 hours of the notice to You. If we do not hear from You within 48 hours, your position prior to the material change is taken to continue.

8. Manheim may at its sole discretion consider, negotiate and accept or reject (in whole or part) any Tender or reject all Tenders.

#### **PAYMENT, TITLE AND RISK**

9. All Tenders and payments are to be expressed in and paid for in New Zealand dollars and be inclusive of GST.

10. All buyers must at the conclusion of the Tender, if required to do so by Manheim, pay a deposit of 10% of the purchase price or \$500 whichever is greater in cash, bank deposit or by credit card (over the counter only) and make full payment by 4.00pm one Business Day after the sale (Completion). A failure to make full payment by 4.00pm one Business Day after the sale may incur a late payment fee.

11. A buyer's administration fee and other fees may be payable by the buyer on Items sold by Manheim. The buyer's administration fee and other fees applicable to an Item are described in the Online Sales System. Where a fixed dollar amount is specified, the buyer's administration fee is inclusive of GST. Where a percentage is noted, the buyer's administration fee is inclusive of GST and will be calculated on the purchase price of the Item.

12. Title in the Items passes when Manheim receives notice of clear title and clear funds on the full payment for the Items.

13. Risk of damage to, and loss or destruction of, the Item shall pass to the buyer immediately on the acceptance and declaration by Manheim of the successful Tender. Subject to clause 5.6, neither the Seller nor Manheim shall be accountable for any deficiency, damage or loss, which may arise thereafter.

14. The buyer will not be allowed to collect or remove an Item or any part of an Item until Manheim has clear title to the payment from the buyer in accordance with paragraph 10 of this Annexure B. All Items must be removed from the nominated storage premises by the buyer no later than 4:00pm one Business Day after Completion. Storage charges may apply on Items which remain uncollected after 4:00pm one Business Day after Completion.

15. The Registered Bidder is responsible for the payment of all delivery charges, if applicable.

16. If a Registered Bidder fails to comply with any of the terms and conditions in this Annexure B, the defaulting Registered Bidder will absolutely forfeit any applicable part payment and will reimburse Manheim for all costs, charges and any difference in sale price consequent upon any resale.

#### **REPRESENTATIONS AND OWNERSHIP**

17. Manheim does not make any representations or provide any undertaking to You other than to invite You to submit a Tender. Manheim is not obliged to negotiate, or sign a contract, with You.

18. The information in this document has been compiled by Manheim for the purpose of inviting Tenders and must not be relied upon for any other purpose.

19. All documents submitted by You in connection with a Tender become the property of Manheim on submission.

#### **CONFIDENTIALITY**

20. By submitting a Tender you grant Manheim an irrevocable, perpetual, royalty free license to reproduce the whole or any portion of the Tender for the purposes of evaluation, notwithstanding any copyright or other intellectual property right that may subsist in the Tender.

21. You agree that Manheim may disclose the Tender, along with any other information disclosed by You to Manheim during the tender process to Manheim's board of directors, management, consultants and advisors or as required by law.

22. The information contained in this invitation to Tender is confidential to Manheim and is issued on the condition that You only use this document and the information it contains for the purpose of preparing a Tender.

23. You must keep confidential this invitation to make a Tender and all negotiations, documents and other information supplied by Manheim during the tender process and must not disclose such information to a third party except as may be required by law.