

## **DISTRESS SALES CARS**

### **VEHICLE AUCTION TERMS & CONDITIONS**

BY TICKING THE BOX AT THE END OF THE PAGE, TAKING AN ACTION TO INDICATE ACCEPTANCE, OR OTHERWISE USING THE E-MARKET PLACE SERVICES (AS DEFINED BELOW), YOU (WHERE APPLICABLE, ON BEHALF OF THE "REGISTERED DEALER" YOU REPRESENT) AGREE TO AND ACCEPT THE TERMS OF THIS E-MARKETPLACE AUCTION AGREEMENT ("AGREEMENT") WITH DISTRESS SALES CARS LLC ("DISTRESS SALES") FOR THE PURPOSE OF PURCHASING AUTOMOTIVE

VEHICLES ("VEHICLE(S)").

IN THE EVENT YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A CORPORATE OR OTHER PUBLIC OR PRIVATE ENTITY, THE TERM "REGISTERED DEALER" REFERS TO THAT ENTITY, AND YOU WARRANT AND REPRESENT THAT YOU ARE AN AUTHORIZED REPRESENTATIVE OF SUCH ENTITY. IF YOU ARE ENTERING INTO THIS AGREEMENT IN YOUR PERSONAL CAPACITY, THE TERM "REGISTERED DEALER" REFERS TO YOU.

THIS AGREEMENT IS A LEGALLY BINDING AGREEMENT BETWEEN THE REGISTERED DEALER AND DISTRESS SALES. IF YOU DO NOT AGREE TO ALL OF THE

TERMS OF THIS AGREEMENT, CLICK THE "CANCEL" BUTTON, AND DISCONTINUE THE USE OF THE E-MARKETPLACE SERVICES (AS DEFINED BELOW) IMMEDIATELY.

### **DEFINITIONS AND INTERPRETATION**

In this Agreement, the following words shall have the following meanings:

"Approved Bidding Limit" has the meaning given in clause 6.1;

"Bid Acceptance" means the acceptance by Distress Sales of an offer placed by the Registered Dealer on the Distress Sales

Platform in accordance with clause 5.4;

"Delivery Charges" has the meaning given in clause 7.4;

"Deposit" means the deposit amount to be paid by the Registered Dealer to Distress Sales in order for the Registered Dealer to make offers for Vehicles using the Distress Sales Platform in accordance with clause 6;

"Distress Sales Account" means an account created by a Distress Sales user to use the Distress Sales Platform;

"Distress Sales Customer" means a third-party seller of a vehicle who is not Distress Sales;

"Distress Sales Platform" means the Distress Sales platform accessible via the website at <http://www.distresssales.io/> and/or the Distress Sales mobile device applications;

"E-Marketplace Services" has the meaning given in clause 3.1;

"Licensing Authority" has the meaning given in clause 8.1;

"Onboarding Requirements" has the meaning given in clause 4.1;

"Registration" means a registration to use the E-Marketplace Services on the Distress Sales Platform;

"Title Transfer" has the meaning given in clause 8.2;

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"UAE" means the United Arab Emirates;

"VAT" means value added taxes or any other similar tax imposed in compliance with applicable laws;

"VAT Authority" means any relevant VAT governmental or regulatory authority (including without limitation the UAE Federal Tax Authority);

"Vehicle(s)" has the meaning given in Recital; and

"Vehicle Purchase Price" means the purchase price of the Vehicle which shall include any fees required to be paid to Distress Sales, including but not limited to the E-Marketplace Fee, as relevant.

## **TERM AND COMMENCEMENT**

This Agreement shall commence on the date of its acceptance by the Registered Dealer and shall remain effective indefinitely, unless and until terminated in accordance with clause 9.

## **E-MARKETPLACE SERVICES**

Distress Sales agrees to provide the Registered Dealer with access to the Distress Sales Platform for the facilitation of the purchase of Vehicles that are being auctioned on the Distress Sales Platform and are owned by either Distress Sales or a Distress Sales Customer (the "E-Marketplace Services").

Distress Sales will use reasonable efforts to ensure that the E-Marketplace Services operate as intended. However, Distress Sales does not warrant that: (i) the Registered Dealer's use of the E-Marketplace Services will be uninterrupted or error-free; or (ii) the E-Marketplace Services and/or the information obtained by the Registered Dealer through the E-Marketplace Services will meet the Registered Dealer's requirements or expectations.

The Registered Dealer acknowledges and agrees that Distress Sales owns all intellectual property rights in the Distress Sales Platform and the E-Marketplace Services. Except as expressly stated herein, this Agreement does not grant the Registered Dealer any rights to, under or in any patents, copyright, database right, trade secrets, trade names, trade marks (whether registered or unregistered) or any other rights or licences in respect of the Distress Sales Platform or the E-Marketplace Services.

## **DISTRESS SALES ACCOUNT**

A holder of a Distress Sales Account may at any time initiate a request to sign-up as a Registered Dealer on the Distress Sales Platform to use the E-Marketplace Services by:

completing the Registration form/process on the App;

submitting any customer due diligence required by Distress Sales to the reasonable satisfaction of Distress Sales (including but not limited to: commercial licenses or certificates of incorporation; passport copies of individuals; passport copies of directors, shareholders or ultimate beneficial owners of corporate bodies; proof of registered

addresses; and UAE Federal Tax Authority Tax Registration Numbers/Certificates) (where such documents are applicable);

paying the Deposit in accordance with clause 6 below; and

accepting this Agreement.

(together, the "Onboarding Requirements").

## **BIDDING PROCESS**

Upon completion of the Onboarding Requirements to the satisfaction of Distress Sales, a Registered Dealer shall have the opportunity to view and place bids for Vehicles on the Distress Sales Platform.

A bid shall be deemed to be placed once the "Make an Offer" button is clicked on the Distress Sales Platform by the Registered Dealer. Any bid for a Vehicle placed by a Registered Dealer shall be valid for forty-eight (48) hours from the time of placement of the bid and shall be binding and non-cancellable.

Distress Sales shall, in its sole discretion, determine the step-up rate for all bids. Any new bids placed by the Registered Dealer must be higher than the current highest bid by at least an amount equivalent to the step-up rate.

The Registered Dealer will receive a notification within the Distress Sales Platform in the event the Registered Dealer has a winning bid for a Vehicle or a bid for a Vehicle is otherwise accepted ("Bid Acceptance"). Upon Bid Acceptance, the Registered Dealer shall be obligated and bound to complete the transaction for the purchase of the relevant Vehicle.

Distress Sales reserves the right to change the time during which bids can be placed or void, reject or cancel any bids at its sole and absolute discretion. Distress Sales has no obligation to accept the highest bid made for any Vehicle.

## **DEPOSIT**

The Registered Dealer shall be required to pay a Deposit to Distress Sales in order to use the E-Marketplace Services. The amount of any Deposit shall be determined and approved by Distress Sales and be reflective of the Registered Dealer's offering limit for bidding on Vehicle(s) on the Distress Sales Platform (the "Approved Bidding Limit").

The Approved Bidding Limit is indicated to the Registered Dealer at the time of Registration and may be increased, if requested by the Registered Dealer, at Distress Sales's sole discretion. Following any such adjustment, the Registered Dealer shall, where necessary, be required to increase the amount of the Deposit held by Distress Sales in relation to its Distress Sales Account in order to comply with the adjusted Approved Bidding Limit.

The Deposit shall be paid and maintained by the Registered Dealer within the Distress Sales Account at all times, failing which the Registered Dealer may be prevented from further use of the E-Marketplace Services until such time as the Registered Dealer rectifies the deficit by increasing the amount of the Deposit to the required level.

The Registered Dealer acknowledges that certain elements or features of the Distress Sales Platform may be inaccessible to the Registered Dealer depending on the Approved Bidding Limit.

If the Registered Dealer, following the Bid Acceptance for a Vehicle:

fails to pay the Vehicle Purchase Price within the allotted timeframe as set out in clause 7;

cancels the purchase of a Vehicle for any reason; or

fails to sign any such document that may be necessary for completion of the purchase of the Vehicle within such timeframe as is notified to the Registered Dealer, Distress Sales shall deduct, as compensation for E-Marketplace Services rendered, the whole or part of the Deposit as Distress Sales may deem fit (acting reasonably), and the Registered Dealer may be required to provide further monies to Distress Sales in order to ensure it has the requisite Deposit in order to be benefit from the E-Marketplace Services thereafter.

Upon termination of this Agreement, a refund of the Deposit shall be made to the Registered Dealer, subject to any deductions that Distress Sales is entitled to make pursuant to this Agreement, within thirty (30) days of the later of the deactivation of the Registered Dealer's Distress Sales Account;

receipt by Distress Sales of any outstanding amounts owed to Distress Sales by the Registered Dealer with respect to the use of E-Marketplace Services; and/or the bank account details of the Registered Dealer being notified to Distress Sales as the account to which the Deposit should be transferred.

## **PAYMENTS**

The Vehicle Purchase Price for any successful bid, plus any applicable Delivery Charges or any other charges specified as part of the auction process for the relevant Vehicle, must be paid by the Registered Dealer to Distress Sales in clear funds within eighteen (18) hours of the Bid Acceptance or such other period as is notified to the Registered Dealer. Title Transfer shall not take effect until the payment of all charges including the Vehicle Purchase Price by the Registered Dealer. If the Registered Dealer fails to make such payment within the allotted timeframe, the Registered Dealer agrees and acknowledges that Distress Sales may deduct such payment from the Deposit and/or cancel the sale of the relevant Vehicle, at its sole discretion.

Save as otherwise agreed in writing by Distress Sales, no variation to the Vehicle Purchase Price shall be accepted by Distress Sales. The Vehicle Purchase Price shall be inclusive of any VAT, unless stated otherwise.

The Registered Dealer accepts that it may be required to make payments to Distress Sales or relevant authorities associated with the sale and purchase of Vehicles; including but not limited to de-registration, transfer, purchasing, entry, sales, handling cash, releasing, storage, RTA Passing Report (if applicable) and/or late payment fees, and any other associated charges and fees. Where applicable, these fees will be subject to VAT.

The Registered Dealer may also opt to get the Vehicle delivered to its desired location within the UAE, subject to payment of delivery charges specified by Distress Sales ("Delivery Charges"). All Delivery Charges shall be payable in advance of delivery.

## **DELIVERY AND POSSESSION**

The Registered Dealer shall, in addition to payment under clause 7.1, within a period of no later than eighteen (18) hours from the Bid Acceptance take all actions that are necessary to ensure that title to the Vehicle transfers successfully to the Registered Dealer, including but not limited to the execution of all documents required to complete the transfer of title and registration of the Vehicle at the relevant vehicle licensing authority (including, for the avoidance of doubt, and without limitation, the Roads and Transport Authority in the Emirates of Dubai (the "RTA") and the Abu Dhabi Police in the Emirate of Abu Dhabi, and their respective successor authorities from time to time and any other equivalent body in any other Emirate in the United Arab Emirates (the "UAE") and elsewhere ("Licensing Authority")) ("Title Transfer").

Title to the Vehicle shall transfer to the Registered Dealer when the transfer of ownership is recorded and verified in the system operated by the relevant Licensing Authority. All risks in respect of the Vehicle shall pass to the Registered Dealer upon payment of the Vehicle Purchase Price by the Registered Dealer.

In the event the Registered Dealer fails to complete the Title Transfer process, the Registered Dealer shall pay to Distress Sales a cancellation fee as determined by Distress Sales from time to time.

Within forty-eight (48) hours of completion of the Title Transfer, and unless the Registered Dealer has opted to have the Vehicle delivered to its location, the Registered Dealer shall take possession of the Vehicle from Distress Sales by appearing either in person or through an authorised third party at Distress Sales's premises or such location as Distress Sales may specify during standard business hours. If the Registered Dealer does not collect the Vehicle within the stipulated time, Distress Sales reserves the right to charge the Registered Dealer a storage/parking fee per day.

The Registered Dealer acknowledges that any documents provided to the Registered Dealer in relation to the Vehicle are provided as-is, and Distress Sales takes no responsibility for the validity or authenticity of the same.

The Registered Dealer may request Distress Sales's assistance to complete any vehicle testing as required by a Licensing Authority, at an additional cost, including without limitation to check the genuineness of odometer reading and/or chassis. No claims related to the genuineness of the odometer or chassis shall be admissible if the relevant test is not completed prior to completion of the Title Transfer. The Registered Dealer shall inform Distress Sales of any other issues with the Vehicle within twenty-four (24) hours of delivery of the Vehicle. Thereafter, no claims shall be admissible.

Distress Sales may, at its sole and absolute discretion and with or without any prior notice, cancel or postpone a sale or withdraw a Vehicle from sale. Distress Sales shall not be liable for any costs, charges, claims, damages, loss of opportunity, revenue or profit, howsoever caused, to the Registered Dealer as a result of any Vehicle retraction, sale cancellation or postponement by Distress Sales, Distress Sales Customer or otherwise.

## **SUSPENSION AND TERMINATION**

This Agreement may be terminated by Distress Sales immediately without notice if the Registered Dealer commits any material breach of any of the provisions of this Agreement and, if the breach is capable of remedy, the Registered Dealer fails to remedy it within three (3) days after being so notified by Distress Sales. In the meantime, Distress Sales reserves the right to suspend the Registered Dealer's Distress Sales Account.

The Registered Dealer may deactivate its Distress Sales Account at any time, provided all payments under the Agreement have been cleared.

All rights, duties and responsibilities of either party that either expressly or by their nature extend into the future, including warranties and indemnifications, shall extend beyond and survive the expiry or termination of this Agreement.

Any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of this Agreement which existed at or before the date of termination, shall not be affected or prejudiced by the termination of this Agreement.

## **LIABILITY**

Distress Sales shall not be liable whether in tort, contract, misrepresentation, restitution or otherwise, for any loss of profits, loss of business, wasted expenditure, loss or corruption of data or information, pure economic loss, or any special, indirect or consequential loss, costs, damages, charges or expenses however arising under this Agreement.

Subject to clause 10.1 above, Distress Sales's total aggregate liability, whether in tort, contract, misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of this Agreement shall be limited to the lower of: (i) the total amount of fees paid by the Registered Dealer in connection with its use of the E-Marketplace Services in the twelve (12) months preceding the event giving rise to a claim; or (ii) AED 1,000.

## GENERAL

The Registered Dealer shall keep confidential all non-public information disclosed, supplied, made available or made accessible to the Registered Dealer, either directly or indirectly, either in writing or orally, relating to or in connection with this Agreement, and shall not disclose any such information or use any such information except where required by law.

Should a dispute arise in relation to a bid (including between the Registered Dealer and any Distress Sales Customer), Distress Sales is solely responsible for determining the outcome of the dispute. The Registered Dealer agrees to indemnify, defend and hold harmless, Distress Sales for any liability (including any claims by Distress Sales Customers) arising from decisions made in connection with any such disputes.

Distress Sales reserves the right to modify the terms of this Agreement at any time. Any revised version of this Agreement will be published on this page, and will become effective immediately upon publication. Distress Sales may also notify the Registered Dealer of any such modification via email and/or on the Distress Sales Platform.

The Registered Dealer may have access to other features and services that are available on the Distress Sales Platform which are governed by a separate set of terms and conditions. Distress Sales will inform the Registered Dealer of such separate terms and conditions at the relevant time.

This Agreement constitutes the entire agreement between the parties in relation to its subject matter, and supersedes, cancels and replaces any and all prior agreements, understanding or arrangements of any nature whatsoever between the parties, whether written, oral or implied, relating to the subject matter hereof.

Nothing contained or implied in this Agreement shall constitute or be deemed to constitute a partnership between the parties, and the Registered Dealer shall not make any public announcement or press release or publicity of any kind whatsoever related to or in connection with this Agreement, except if otherwise agreed by the parties in writing.

This Agreement may be executed in more than one language. If there is a conflict between the original English language and any translation of this Agreement, the original English version shall prevail.

This Agreement shall be governed by and construed in accordance with the laws of the Dubai. Any dispute, controversy, or claim arising out of or in connection with this Agreement, including in connection with its existence, validity or termination, shall be settled exclusively by the Dubai courts.”