

# BCA Assured Scheme Terms and Conditions

## 1 THE BCA CONDITIONS OF ENTRY AND SALE

- 1.1 The entry of Vehicles for sale, the offering of Vehicles for sale and the purchase of Vehicles in each case through British Car Auctions Limited ("BCA") are subject to the BCA Conditions of Entry and Sale ("the Conditions") copies of which are displayed in all BCA branches and are available free of charge and the BCA website at [www.british-car-auctions.co.uk/About-Us/Terms-and-Conditions](http://www.british-car-auctions.co.uk/About-Us/Terms-and-Conditions)
- 1.2 The terms "Vehicle" and "Buyer" where used in these BCA Assured Terms and Conditions shall have the meanings ascribed to them by the Conditions.

## 2 THE BCA ASSURED SCHEME

- 2.1 Where a Vehicle is sold under the BCA Assured scheme ("the Scheme") these BCA Assured Scheme Terms & Conditions will apply.
- 2.2 Where a Vehicle is offered for sale under the Scheme, prior to the sale BCA shall:
  - 2.2.1 arrange for the Vehicle to undergo a mechanical assessment in a static environment at ground level (i.e. not on a ramp) followed by a 20 metre brake test and first and reverse gears drive test ("the Mechanical Assessment");
  - 2.2.2 using the results of the Mechanical Assessment, compile a mechanical report ("the Mechanical Report") describing the condition and/or functionality of those aspects of the Vehicle assessed; and
  - 2.2.3 post online and affix to the Vehicle a copy of the Mechanical Report.
- 2.3 A Buyer of a Vehicle offered for sale under the Scheme will pay a charge to BCA in consideration of receiving the Mechanical Report. The amount of this charge will depend upon the Buyer's MyBCA Card status as set out in the tariff of charges available to view at the BCA website. Charges are exclusive of VAT and are subject to change from time to time at BCA's discretion.
- 2.4 The descriptions of the condition and/or functionality of aspects of a Vehicle as contained in the Mechanical Reports provided under the Scheme:
  - 2.4.1 originate from BCA;
  - 2.4.2 are provided by BCA to Buyers as assurances in addition to the BCA undertakings described in Condition 11 of the Conditions; and
  - 2.4.3 are terms of the collateral contract made between BCA and a Buyer or a seller.
- 2.5 Sellers have no responsibility for the creation of Mechanical Reports or their provision to Buyers and, accordingly, to the extent that any liability thereunder and/or therefore may be construed as being the Seller's, it is hereby excluded to the fullest extent permitted by law.

## 3 SCOPE AND LIMITATIONS OF THE SCHEME

- 3.1 Exclusions and limitations of BCA's liability in respect of the Scheme are set out in clause 7. The Mechanical Assessments and the assurances contained within the Mechanical Reports are limited in their extent as described in this clause 3.
- 3.2 The Mechanical Assessment in each case comprises assessment of only those aspects of a Vehicle against which entries have been made in the Mechanical Report form, which aspects may vary between individual vehicles. BCA shall not be obliged to assess all those aspects of a Vehicle which are listed on the Mechanical Report form.

- 3.3 The static gear selection test differs depending upon the type of gearbox fitted to the Vehicle in question. Where a manual gearbox is fitted, the test involves attempting to select each gear with the Vehicle stationary and the engine running. Where an automatic gearbox is fitted, the test involves attempting to select each gear that is indicated on the gate as being available for manual selection, again with the Vehicle stationary and the engine running. Where a semi-automatic gearbox is fitted, the test involves attempting to select those gears which should be available for manual selection, again with the Vehicle stationary and the engine running.
- 3.4 The brake efficiency test, first and reverse gears drive test and clutch slipping test are performed concurrently and involve selecting first gear, moving off and coming to a halt within 20 metres and selecting reverse gear, moving off and coming to a halt within 20 metres.
- 3.5 Assessment of satellite navigation systems, air conditioning systems and in car entertainment systems shall be restricted to an attempt to switch on any such things in the normal fashion using the controls provided. The Mechanical Report in respect of such things will identify only whether or not they appear to receive power when switched on. With reference to clause 4, an "OK" would indicate that the item in question does appear to receive power and the description 'requires attention' would indicate that it does not.
- 3.6 Without prejudice to the generality of clause 3.2, Mechanical Assessments DO NOT INCLUDE:
- 3.6.1 dismantling or disturbing any structure, assembly, component or internal mechanism;
  - 3.6.2 an MOT test or a road test and (with particular reference to turbochargers, gearboxes and transfer boxes) will not reveal faults that would only have become apparent during such tests;
  - 3.6.3 an assessment or prediction of:
    - a) oil, fuel or any other fluid consumption;
    - b) the source of oil, water and any other fluid leaks including but not restricted to oil seals, gaskets, seals, joints, hoses, pipe connections or other components (including the rear main oil seal);
    - c) oil or coolant contamination;
    - d) the condition or type of brake lining materials including but not limited to pads, discs and any other lining material;
    - e) the condition of brake fluid;
    - f) the life expectancy of any structure, assembly or component, including but not limited to the clutch and dual-mass flywheel;
    - g) the condition of the timing belts/chains and any auxiliary belts
    - h) the condition of the air suspension system
    - i) the condition, functionality or performance of satellite navigation systems or in car entertainment systems, beyond an indication as to whether or not any such items appear to receive power when switched on in the normal fashion using the controls provided (as per clause 3.5);
    - j) the condition, functionality or performance of alarm systems;
    - k) the condition, functionality or performance of vehicle technical systems, that is, automatic or computerised operating systems, which may be controlled by microprocessors;
    - l) cylinder compression;
    - m) the condition, functionality or performance of vehicle electrics and electronics;
    - n) the accuracy of in-car computer systems (for example, but in no way restricted to, computers used for route finding, fuel efficiency or otherwise);

- o) exhaust emissions, other than noting observations as to excessive smoke;
- p) the condition, functionality or performance of catalytic converters and diesel particulate filters;
- q) the condition, functionality or performance of LPG systems;
- r) the condition, functionality, performance or efficiency of air conditioning systems, beyond an indication as to whether or not any such items appear to receive power when switched on in the normal fashion using the controls provided (as per clause 3.5);
- s) non-standard accessories as a result of personal modifications or otherwise;
- t) any dynamic functionality including but not limited to automatic headlights, wipers and cruise control;
- u) the condition, functionality or performance of key fobs or remote control devices;
- v) the condition, functionality or performance of propulsion batteries/traction packs in electric and hybrid vehicles;
- w) tyre punctures
- x) tyre discrepancies of up to 1mm, inside tyre wall damage and perished tyre walls

3.6.4 an assessment of whether, or any assurance that:

- a) the passenger or luggage compartments are watertight;
- b) all or any of the components of the vehicle are either original components or replacement components which have been manufactured by the manufacturer of the vehicle;
- c) the vehicle would pass an MOT test;
- d) any of the following are authentic: the vehicle V5 Registration Document, the mileage as indicated by the odometer, the MOT certificate, the Excise Licence, the VIN Number, the Engine Number, the Registered Number or the vehicle service history;

3.6.5 an inspection of any parts/items that are not reasonably visible or accessible at the time the Mechanical Assessment is carried out;

3.6.6 a check for any recall notices.

3.7 Non Runners are excluded from the Scheme.

3.8 Vehicles purchased and moved to outside of the United Kingdom and the Republic of Ireland are excluded from the Scheme.

3.9 In circumstances where one or more of the items listed in the 'Engine Bay', 'Engine Running' or 'Dynamic Operation' sections of a Mechanical Report is described as 'requires some attention' or 'requires attention', then BCA shall have no liability in respect of any claim(s) made where:

3.9.1 there are any warning lights illuminated relating to those items; or

3.9.2 any other items referred to in the same Mechanical Report to the extent that the issue(s) giving rise to any such claim(s) can reasonably and properly be supposed to have been presaged by the item(s) identified as requiring some attention or requiring attention.

3.10 In circumstances where one or more of the items listed in the 'Interior Checks' section of a Mechanical Report is described as '! Illuminated - amber' or '! Illuminated - red', then BCA shall have no liability for any claim(s) made in respect of any of the items listed in the 'Engine Bay', 'Engine Running' or 'Dynamic Operation' sections of the same Mechanical Report to the extent that the issue(s) giving rise to any such claim(s) can reasonably and properly be supposed to have been warned by the item(s) identified in the 'Interior Checks' section as requiring some attention or requiring attention.

- 3.11 Notwithstanding the above, only items visible at the time of inspection will be included in the Mechanical Report. Any items missing and/or removed will be excluded. The Mechanical Report will not include any modifications.

#### **4 MECHANICAL REPORTS**

- 4.1 Aspects of a Vehicle that have been assessed and are described in the Mechanical Report:
- 4.1.1 by a tick mark and 'O.K.' are aspects that, whilst not necessarily in an 'as new' or retail condition, on an objective assessment are considered to be in a serviceable state or condition, or indicative of such a state or condition;
  - 4.1.2 'requires some attention' are aspects that are considered to function in a manner, exist in a state or condition, or indicate a state or condition (as the case may be) that is inferior to that described in clause 4.1.1 but is superior to that described in clause 4.1.3
  - 4.1.3 'requires attention' are aspects that do not function at all, function only in a wholly unsatisfactory or unusable manner, or exist in or indicate a similarly defective, wholly unsatisfactory or unusable state or condition.
  - 4.1.4 by an amber exclamation mark and the words 'illuminated - amber' are warning lights that remain illuminated and indicate a state or condition that, whilst not necessarily unserviceable, is sub-optimal;
  - 4.1.5 by a red exclamation mark and the words 'illuminated - red' are warning lights that remain illuminated and indicate a state or condition that is wholly unsatisfactory or unserviceable.
- 4.2 To the extent that the condition or functionality of any aspect of a Vehicle is either:
- 4.2.1 not described by the Mechanical Report;
  - 4.2.2 not disclosed as a specified fault; or
  - 4.2.3 not warranted pursuant to a "No Major Mechanical Faults" description having been applied to the Vehicle;
- then that aspect shall be sold "as seen" in accordance with clause 7 of the Conditions.
- 4.3 An illuminated warning light indicates a symptom, for a claim to be upheld the cause must be covered under the Scheme.
- 4.4 Any warning lights not denoted on the mechanical report will not be covered under the Scheme.

#### **5 CLAIMS PROCEDURE**

- 5.1 If a Buyer believes that the description given in a Mechanical Report of the condition or functionality of one or more aspects of a Vehicle does not correspond with the actual condition or functionality of that aspect or those aspects of the Vehicle and the Buyer wishes to make a claim in this regard he must provide BCA with written notification of his claim, which written notification must describe the alleged inaccuracy in sufficient detail to allow BCA to investigate and must be received by BCA as soon as reasonably practicable after the sale and in any event within the time and mileage limits set out in clause 5.2.
- 5.2 Without prejudice to clause 5.3 a Buyer wishing to make a claim pursuant to clause 5.1 must provide BCA with written notification of the alleged inaccuracy within the following time and mileage limits:
- 5.2.1 Except where the Buyer has entered into a vehicle logistics contract with BCA for the delivery of the Vehicle, BCA must receive the Buyer's written notification either:

- a) within 48 hours of the Vehicle leaving BCA premises; or
  - b) before the Vehicle has completed more than 500 driven miles since the fall of the Auctioneer's hammer (whichever occurs sooner).
- 5.2.2 Where the Buyer has entered into a vehicle logistics contract with BCA for the delivery of the Vehicle, BCA must receive the Buyer's written notification either:
  - a) within 48 hours of the Vehicle being delivered by BCA; or
  - b) before the Vehicle has completed more than 500 driven miles from when the Buyer took delivery of the Vehicle (whichever occurs sooner).
- 5.3 In the case of a Vehicle in respect of which any aspect other than the air conditioning, satellite navigation, in-car entertainment, central locking or electric hood or sunroof has been described in the Mechanical Report as 'requires some attention' or 'requires attention', BCA must receive the Buyer's written notification of claim before any attempt has been made by or on behalf of the Buyer to move the Vehicle under its own power (other than as may be strictly necessary in order to remove the Vehicle from the auction hall, and load it onto and unload it from a vehicle transporter).
- 5.4 In addition to the time and mileage limits set out in clause 5.2, a buyer wishing to make a claim pursuant to clause 5.1 must:
  - 5.4.1 ensure the Vehicle remains in the United Kingdom or the Republic of Ireland;
  - 5.4.2 make the Vehicle available for inspection at a suitable location reasonably acceptable to the independent vehicle inspector arranged by BCA pursuant to clause 5.5;
  - 5.4.3 preserve the condition of the Vehicle, which shall include:
    - a) in the case of a Vehicle in respect of which any aspect other than the air conditioning, satellite navigation, in car entertainment, central locking or electric hood or sunroof has been described in the Mechanical Report as 'requires attention', refraining from attempting to move the Vehicle under its own power before it has been inspected by the independent vehicle inspector arranged by BCA pursuant to clause 5.5; or
    - b) in all other cases, refrain from using the Vehicle insofar as that is reasonably practicable, and in any event not exceeding 500 driven miles, before it has been inspected by the independent vehicle inspector arranged by BCA pursuant to clause 5.5; and
    - c) not under any circumstances have carried out or attempted to carry out any repairs or other works to the relevant item(s) or part(s) of the Vehicle before it has been inspected by the independent vehicle inspector arranged by BCA pursuant to clause 5.5.
- 5.5 On receipt of written notification of a claim made pursuant to clause 5.1 and in accordance with clauses 5.2 and 5.3, BCA may procure that an independent vehicle inspector contacts the Buyer to arrange for the Vehicle to be inspected.
- 5.6 BCA reserves the right to reject a claim if a Buyer fails to follow the claims procedure set out in this clause 5.

## **6 REMEDIES**

- 6.1 In the event that the independent vehicle inspector arranged by BCA pursuant to clause 5.5 confirms that the description given in the Mechanical Report of the condition or functionality of the aspect or aspects of a Vehicle complained of by the Buyer of that Vehicle do not correspond with the actual condition or functionality of that aspect or those aspects of the Vehicle then subject always to clause 7.1:
  - 6.1.1 BCA shall pay to the Buyer a sum equivalent to the cost of repairing the Vehicle at a repairer nominated by BCA; or

- 6.1.2 BCA may at its absolute discretion (but shall not be obliged to) arrange at its own cost for the Vehicle to be returned to BCA premises and for the Buyer to be reimbursed the full sum invoiced in respect of the Vehicle less the charge levied under the Scheme.

## **7 EXCLUSION AND LIMITATION OF LIABILITY**

- 7.1 Subject always to clause 7.2:
- 7.1.1 the remedies described in clause 6 shall be a Buyer's sole remedy against BCA in respect of a claim made pursuant to clause 5.5;
- 7.1.2 BCA shall not be liable to a Buyer who has not complied with the conditions set out in clause 5;
- 7.1.3 BCA shall not be liable to a Buyer, whether in contract, tort (including negligence) breach of statutory duty, or otherwise, for any loss of profit, business or goodwill, or any pure economic, indirect or consequential loss.
- 7.2 Nothing contained in these conditions purports to exclude any liability on the part of BCA for:
- 7.2.1 any fraudulent statement or act; or
- 7.2.2 death or personal injury resulting from negligence.

## **8 SEVERABILITY**

If any part of these conditions is held by a court of competent jurisdiction to be unenforceable the validity of the remainder will not be affected.

## **9 THIRD PARTY RIGHTS**

These conditions are enforceable only by BCA and the Buyer. It is not intended that anyone else has a right to enforce them whether under the Contract (Rights of Third Parties Act) 1999 or otherwise.

## **10 GOVERNING LAW AND JURISDICTION**

These conditions shall be interpreted in accordance with the Laws of England and Wales and subject to the non-exclusive jurisdiction of the courts of England and Wales.