



**DRIVE AUTO AUCTIONS
Virtual Sales
AUCTION ARBITRATION POLICY**

**EFFECTIVE DATE:
July 15, 2017**

I. General Policies and Procedures

1. Exclusions to the Arbitration Policies

Mechanical issues identified in a condition report provided by Drive Auto Auctions ("Auction") prior to sale will not be subject to arbitration.

The following items are sold "AS IS" and are not subject to arbitration:

- Vehicles sold for \$2,000.00 or less.
- Vehicles 10 years old and older.
- Vehicles with over 100,000 miles.
- Kit vehicles, homemade vehicles, or modified vehicles.
- Vehicles sold on a branded title.
- All non-titled vehicles and equipment.
- Gray market vehicles.
- Vehicles sold with a "Green Light" and any single mechanical defect that can be repaired for \$400.00 or less.
- Vehicles transported post-sale outside the United States.

The following issues are not subject to arbitration:

- Interior cosmetic features.
- Body panels including bumpers and/or bumper covers.
- Paint quality.
- Noises or conditions that are inherent or typical to a particular model or manufacturer, unless deemed "excessive" by the arbitrator on non-warranty items. OEM dealer warranty guidelines will be used where applicable to determine whether the condition is excessive.
- Vehicles with standard transmissions cannot be arbitrated for manual clutches unless the defect will not allow a safe test drive.
- Auction will not arbitrate vehicles for wearable items. For purposes of this policy wearable items are defined as parts of the vehicle that the manufacturer recognizes the need for replacement/adjustment during the expected life of the vehicle. These items are normally identified in the Owner's Manual for routine check and replacement and would include, but are not limited to: tires, wipers, brake pads, shoes, rotors, belts, hoses, lubricants/fluids, timing belts, bulbs, filters, shocks and struts.
- Model year on boats, RVs or any item sold on Bill of Sale.
- VIN on 1970 and older vehicles.

Other conditions and exclusions:



Auction will not knowingly allow Grey market vehicles to be offered for sale.

Auction reserves the right to refuse to list any vehicle that management judges to be unsafe.

Vehicles may not be arbitrated based solely upon information provided in Electronic Data Vehicle Histories (EDVH) or printed EDVH reports. Auction and Seller are not bound by information listed in EDVH. Examples of EDVH include Carfax, AutoCheck, NMVTIS, etc. Auction may investigate vehicle history based on information found in EDVH for information that may impact arbitration.

Auction is not bound by vehicle grades or other types of scoring systems placed upon the vehicle. Buyers may only arbitrate a vehicle based upon damage or defects that were present at the time of the sale of the vehicle.

Each vehicle transaction is allowed one opportunity at arbitration. The arbitrator will inspect only the defect that is listed the arbitration form/documents. Repair costs will be determined by the auction and will reflect the auction cost to repair. If price adjustment is made and accepted, vehicle becomes AS-IS property of the Buyer, and is not subject to any further arbitration. Auction management makes the binding decision upon both the Buyer and Seller on all arbitration matters.

2. Fee for Arbitration

An arbitration fee of \$149.00 will be charged to the Buyer if the arbitrator rejects the Buyer's claim. If the arbitrator deems that the Buyer's claim is valid, Auction will assess an arbitration fee to the Seller in addition to any other charges associated with the arbitration.

3. Reasonable and Ethical Practices

The sales made online using Auction's virtual auction technology are intended to reflect fair and ethical treatment to both the Buyer and Seller. If Auction determines that the transaction is not fair and ethical to either party, the Seller and the Buyer agree that Auction may cancel the sale, at its sole discretion.

4. Auction's Participation

Auction makes no representations or guarantees on any vehicle sold or offered for sale.

Except in instances where Auction or a related entity owns the vehicle, Auction is not a party to the contract of the sale. The sales contract is exclusively between the Seller and Buyer.

All vehicles bought or sold through Auction or listed for sale on Auction's virtual bidding platform must be processed through Auction. Failure to do so may result in suspension or termination of buying or selling rights through Auction, in Auction's sole discretion.

Auction reserves the right to review any information concerning the vehicle to verify the accuracy of the information provided by the Seller. Auction may in its sole discretion may modify or remove any information concerning the vehicle.

Any vehicle assigned to Auction is subject to inspection by local, state, and Federal law enforcement and regulators, any other governmental agency, or quasi-governmental agency.

5. Auction VIN Policies

All vehicles assigned must have a public Vehicle Identification Number (VIN) plate attached to the

vehicle. Vehicles having a State-issued replacement VIN plate must be announced to Buyer or they will be subject to sale cancellation or buyer may return the vehicle up to 72 hours after the sale date. Auction reserves the right to refuse the sale of any vehicle in which the VIN plate appears to be altered in any way or if Auction is unable to verify the VIN within a reasonable time of the assignment.

II. Sale Light Display

Auction displays lights online to describe the condition and/or disclosures related to the vehicle being sold. Each light is defined below:

1. Green Light – “Run and Drive”: Vehicles sold on a green light are subject to the arbitration guidelines, except for specific announcements made prior to the sale or during the virtual sale. An online disclosure will be provided indicating whether the title is on hand or pending.
2. Red Light – “As-Is”: Vehicles sold on a red light are not subject to arbitration regardless of disclosures made pre-sale or during the virtual sale. An online disclosure will be provided indicating whether the title is on hand or pending.
3. Yellow Light – “Announcements”: This light is an indication to the Buyer that the Auction or Seller has announcements that qualify / clarify the condition or equipment and limit arbitration of the vehicle. This light is only used in conjunction with the other lights.
4. Blue Light – “Title Attached/Unavailable/Absent”: This light is used to announce that the title is not present at the time of the sale. For Auction rules regarding titles, please refer to the Arbitration Policy. If “title attached/unavailable/absent” is not announced, a vehicle could be arbitrated under the Title Arbitration Policy, below.

III. Seller Responsibilities

1. Seller will be responsible for the accuracy and completeness of all representations or descriptions that a reasonable person in Seller's position would have identified prior to listing the vehicle for sale.
2. Mileage announcements are not required for vehicles that are 10 years old or older and/or deemed exempt from federal/state Odometer and Title disclosure laws unless a mileage discrepancy is known or apparent to the Seller. Any disclosures made by the Seller and all known odometer discrepancies are grounds for arbitration.
3. Odometer discrepancies and title brands must be announced including, but not limited to, not actual miles, salvage, theft recovery, stolen vehicle, flood damage, lemon law buybacks, and trade assist.
4. Online announcements/disclosures are required for any matters that relate to the safety or integrity of the vehicle including, but not limited to, all requirements under state or federal statutes or regulations.
5. The announcement of the presence of dash warning lights does not exempt a Seller from arbitration responsibilities as defined by the policy. The issue/defect found to be the cause of the light may be arbitrated within the stated time period and dollar amount threshold according to Appendix 1.
6. The availability of a manufacturer's warranty shall not affect a Buyer's right to arbitrate a vehicle. Regardless of the warranty coverage in terms of the root cause of the complaint, an announcement of the defect is required.

7. In the event that a major mechanical problem is found to exist by the arbitrator, then the Seller agrees to negotiate with the Buyer in a fair and reasonable manner to either provide a price adjustment or repurchase the vehicle.
8. In the event of a successful arbitration by the Buyer, the Seller is responsible for reimbursement of all reasonable documented expenses incurred by the Buyer (excluding profit, commissions, and detail charges) on vehicles arbitrated for undisclosed conditions. Reimbursements that qualify under these guidelines will be at the sole discretion of Auction and will be limited to the reasonable and documented expenses at (wholesale) repair cost.
9. Seller will not be paid for vehicles where arbitration is pending. For arbitrations occurring after the Seller has been paid, Seller is required to promptly return the payment to the auction if the transaction is voided as a result of arbitration. If a renegotiated price is agreed upon between the Buyer and the Seller then the Seller agrees to immediately return to Auction that portion of the payment that represents the renegotiated terms.
10. Prior to the Auction inventorying process, any vehicles delivered or left at the Auction facility without Auction approval remain the sole responsibility of the Seller. Seller assumes all risk of loss.

IV. Buyer Responsibilities

1. Prior to placing bids, Buyers are responsible for reviewing all pertinent information available on the vehicle listing, including but not limited to announcements/disclosures, condition reports, pictures and online listings. Buyers are also responsible for observing and understanding the Sale Light Displays which identify various sale conditions for the vehicle.
2. Buyer is responsible to perform a reasonable inspection of the vehicle to determine if any obvious mechanical defects exist that could be determined through a visible inspection prior to the vehicle leaving the Auction facility; any obvious mechanical defects not brought to the attention of Auction prior to the vehicle leaving the Auction facility will not be subject to arbitration.
3. Auction will not arbitrate vehicles based upon any unintentional errors or omissions of any promotional information related to the vehicle, walk-around, handouts, or vehicle markings, as they are for the convenience of the Buyer and are not to be relied upon as accurate or complete.
4. Buyer agrees to be liable for any and all work performed on a vehicle (including a vehicle purchased as title attached or title pending) prior to returning the vehicle to Auction except on vehicles arbitrated for undisclosed conditions not detectable through vehicle inspection including but not limited to; not actual miles, salvage, theft recovery, stolen vehicle, flood damage, Lemon Law buybacks and trade assist.
5. Buyer is financially responsible for any pending sale and assumes all risk of loss to the vehicle until arbitration is final.
6. Auction and Seller will not be responsible for any obvious damage not identified and reported to Auction management prior to the removal of the vehicle from the auction premises by Buyer or Buyer's agent or transporter.
7. Buyer shall not surrender possession of the vehicle to any claimant, except as required by legal process, nor shall Buyer voluntarily pay or acknowledge the validity of any claim, without the prior approval of Auction. Time is of the essence. Any failure on the part of the Buyer, after becoming aware of said claim, to notify Auction of any claim in a timely manner or failure of the Buyer to cooperate in defending any such claim shall relieve Auction and Seller of any liability under this policy.
8. A vehicle is not considered returned until received, inspected and approved for return by Auction management. Any vehicle returned must be in the same or better condition as when sold. Any

vehicles delivered to and left on Auction premises without Auction's approval remain the sole responsibility of the Buyer. Buyer assumes all risk of loss.

9. Vehicle must be returned in a timely manner consistent with Auction management's instructions.
10. There may be a per-mile charge (determined by Auction) for excessive mileage on a returned vehicle at the discretion of Auction.
11. Neither Seller nor Auction shall be liable for any vehicle sale or repairs made by the Buyer before the title is received by the Buyer. If the title has been mailed by Auction to Buyer, Buyer may not return the vehicle. If Seller presents a valid negotiable title to Auction within 48 hours (excluding weekend and Auction-observed holidays) from the time that Buyer notifies Auction of its intent to return the vehicle, then the Buyer may not return the vehicle.

v. Title Arbitration Policy

1. All titles submitted by Seller must be in Seller's company name on title or on a properly executed reassignment form. Seller guarantees the titles of vehicles that are sold through Auction. This guarantee of the title warrants that the title shall be marketable and free and clear of all liens and encumbrances. Seller guarantees that the current title is and the previously issued titles were unbranded unless such brand was announced/disclosed at the time the vehicle is listed for sale online and Seller's liability under this title guarantee shall in no event exceed the sale price (the "maximum amount") of the vehicle, and this maximum amount shall be reduced by two percent (2%) per month following auction sale date. All liability under this title guarantee shall expire and terminate 48 months after auction sale date. Auction will not be responsible for any expenses incurred on vehicles returned for late title delivery.
2. Seller warrants, represents and guarantees possession and conveyance of a certificate of title, properly executed, valid in the state where the transaction is occurring and clear of all liens and encumbrances (except current year DMV fees in California), and Seller warrants and will defend the title against the claims and demands of all persons whatsoever.
3. Seller will ensure that the title is reassigned directly to Buyer. Any title assigned directly to facilitating Auction will not be accepted.
4. Seller will not be paid for vehicles until a transferable title is received.
5. Auction accepts no responsibility for non-titled vehicles sold without title. Seller must announce/disclose the vehicle being sold with a bill of sale only and that there is no title to transfer.
6. If the title problem is due to a clerical or coding error, or incomplete documentation, Auction shall be given reasonable time after receiving notice to have the error corrected.
7. Applications or other documents related to a duplicate title will not be accepted, unless announced/disclosed in the online vehicle listing as such or if allowed by the appropriate jurisdiction.
8. Foreign titles, such as Canadian titles, are unacceptable.
9. Seller has up to a maximum of 24 calendar days or the maximum period of time allowed by state law for title to be received by Auctions. (Sale day is Day 1.) After 24 calendar days or the maximum period of time allowed by state law, Buyer may either return the vehicle or wait a reasonable period of time for the title. If, after 90 calendar days, Seller has not produced negotiable title and Buyer has not returned the vehicle, the title guarantee shall not apply and Auction shall have no duty to produce the certificate of title to Buyer.
10. Vehicles lacking a properly assigned title or reassignment to transfer a title at time of sale must be listed by Seller as "Title Attached/Title Pending", unless disclosure is not required by the state.

11. Repossessed vehicles lacking a lien release or a valid repo affidavit (where allowed by law) must be listed by Seller as "Title Attached/Title Pending", unless disclosure is not required within the state.
12. In regard to a defect in title, and in any matter relating to odometer mileage, odometer statements, or damage disclosure statements: Seller and Buyer agree to indemnify and hold harmless Auction from any liability, loss, costs, damage, or expense, including attorney fees which may arise either directly or indirectly from the sale and purchase of the vehicle including, but not limited to, title services provided.
13. Whenever any claim is made by any person against the title of a vehicle, whether by suit or otherwise, the Buyer, after becoming aware of said claim, shall immediately notify Auction in writing, including providing full particulars of the claim, cooperating fully in defending any legal action, and in taking all reasonable steps to mitigate any losses.

VI. Arbitration Guidelines

Vehicles that have any of the defects outlined in Appendix 1 that were not disclosed in the online vehicle listing or condition report must be reported to Auction within the time frame noted below in order to be eligible for arbitration. Vehicles must be returned to Auction in the same or better condition than when purchased.

1. Time Period

Arbitration will be for a period not to exceed 2 days from the time the vehicle is received by Buyer with a maximum of 7 calendar days from original sale date. Buyer or their agent acknowledge they have reviewed the condition report and accept the vehicle subject to the disclosures contained within. Auction guarantees the accuracy of information provided in the condition report for 14 days from the sale date.

2. Process

Each vehicle transaction is allowed one opportunity at arbitration. The arbitrator will inspect only the defect that is listed on the arbitration form/documents completed by Buyer. Repair costs will be determined by the arbitrator and will reflect the cost to repair as determined by the arbitrator. If a price adjustment is made by Seller and accepted by Buyer, the vehicle becomes "As-Is" property of the Buyer, and is not subject to any further arbitration.

Appendix 1: Required Announcements

Required Announcements	Green Light "Ride & Drive"	Red Light "As-Is"
Major Components		
Engine problem*	Yes	No
Cracked or Repaired Block*	Yes	No
Transmission Problem*	Yes	No
4 X 4 System inoperable*	Yes	No
ABS problem*	Yes	No
Emission Control equipment missing or inoperable*	Yes	No
Air conditioning system*	Yes	No
SRS-Missing or problem with airbags*	Yes	No
Vehicle History Issues		
State-Issued VIN plates (including kit vehicles)	Yes	No
Taxis, Livery vehicles, Police cars, Government vehicles	Yes	No
Previous Canadian vehicles	Yes	No
Voided Factory Warranty	Yes	No
Fuel Conversion	Yes	No
Non-Original Engine (excludes items replaced under Manufacturer's warranty) Current model year and up to 4 model years old	Yes	No
Logo or Decal Misrepresentation	Yes	No
Structural Damage/Certified Structural Repair or Replacement/Structural Alteration per NAAA Structural Damage Policy	Yes	Yes
Not Actual Miles/Inoperative Odometer**	Yes	Yes
Salvage or Reconstructed/Theft Recovery/Stolen Vehicles (including history)	Yes	Yes
Bonded, Insurance and/or Salvage titles (including history)**	Yes	Yes
Flood Damage (By Auction Inspection)	Yes	Yes
Lemon Law/Manufacturer's Buyback**	Yes	Yes
Grey Market Vehicles**	Yes	Yes
Vehicles being sold with no title (Bill of Sale only)	Yes	Yes
Bio-Hazard vehicles as required by law	Yes	Yes
Flood Damage History (discovered by DMV and/or Insurance company records)	Yes	Yes
Other Issues		
Vehicle Accessory Electrical Problems* (Current model year and up to 4 model years old)	Yes	No
Paintwork (3 panels or more) on current model year and newer (excludes bumpers)	Yes	No
Vehicles not equipped with air conditioning (excludes vehicles 10 model years old or older)	Yes	No
Vehicles being sold with a CO, MSO, or Repo Affidavit title (if required by law)	Yes	Yes
Pending state or local DMV fees or taxes over \$100 due on vehicle (if required by law)	Yes	Yes
Any disclosure required by law	Yes	Yes
Footnotes:		
The right to seek Arbitration will lapse the earlier of 7 days from date of sale or 2 days from date received.		
*Must disclose defects that are singularly \$400 or more to repair.		
** Drive Auto Auctions may, at its sole discretion, agree to arbitrate a vehicle issue after the stated time limit has expired.		