

AUCTION USER AGREEMENT

car&bike Auction User Agreement

1. This document is an electronic record in terms of Information Technology Act, 2000 and rules there under as applicable and the amended provisions pertaining to electronic records in various statutes as amended by the Information Technology Act, 2000. This electronic record is generated by a computer system and does not require any physical or digital signatures.
2. This document is published in accordance with the provisions of Rule 3 (1) of the Information Technology (Intermediaries guidelines) Rules, 2011 that require publishing the rules and regulations, privacy policy and User agreement for access or usage of www.carandbike.com website and the auction page therein.
3. These are the terms and conditions (hereinafter referred to as "**car&bike Auction User Agreement**") governing your participation in the car&bike Virtual Auction on the website www.carandbike.com (hereinafter referred to as "Website") and shall come into effect on 31st Oct at 12:00 PM (**noon**). The car&bike Auction User Agreement is valid and applicable to the Website owned and operated by Fifth Gear Ventures Limited (hereinafter referred to as "FGVL") as well as to the vehicle sold through the auction by Respective Dealers (hereinafter referred to as "Respective Seller"). On accessing this Website and/or on registration as a Registered Bidder you accept that this car&bike Auction User Agreement is the legally binding contract between you, seller and FGVL. You will and are deemed to re-affirm that agreement every time you log in, or bid, or make use of any of the services on the Website or participate in the car&bike Virtual Auction.
4. This Website is the sole property of FGVL and all intellectual property rights in the Website and the contents displayed therein vest solely in FGVL or their respective licensors.
5. This Website and the products and services offered through the Website are intended for residents of India only and the contents of this Website are subject to the matters set out below, which are to be read in conjunction with the Privacy Policy and Disclaimers which may appear on this Website.
6. "You" / "you" / "Your" / "your" / "User" refers to the person or entity accessing or registering for the auction on the Website and/or availing the services or products offered through the Website. By accessing the Website or by registering and/ or using the Website, you agree and accept the car&bike Auction User Agreement as set forth below. This Agreement applies for an indefinite term. You must be a registered user to place bids for the vehicle on this Website. You will be deemed to have completed your registration on the Website only after paying the Caution Money of INR.101/- (In Words One Hundred and One). A registered user of the Website will be hereinafter referred to as a "Registered Bidder". Registered Bidders who are selected as the winners of the respective 6 auctions will be hereinafter referred to as "Winning Bidders". The final amount quoted by the Winning Bidder for each auction and accepted as the highest bid by FGVL will be hereinafter referred to as the "Winning Bid".

ACCEPTANCE OF TERMS OF USE

7. Your use or viewing the Website denotes your acceptance of the car&bike Auction User Agreement, including the Disclaimers and Privacy Policy available on the Website, and all other operating rules, policies, and procedures that may be published on the Website, which are incorporated by reference. In addition, some services offered through the Website may be subject to additional terms and conditions as adopted by FGVL and the User agrees to abide by such additional terms and conditions as may be communicated by FGVL to the User from time to time. FGVL reserves the right to change, suspend, or discontinue the Website (including, but not limited to, the availability of any feature, database, services or content) or any part thereof, at any time for any reason. We may also impose limits on certain features and services or restrict your access to parts or all of the services of Website without notice or liability. The Website and its contents and services offered through the Website are available only to individuals who are at least 18 years old. You represent and warrant that if you are an individual, you are at least 18 years old to form a binding contract, and that any personal information you may submit will be accurate and truthful. We reserve the right to ask for proof of age or other KYC documents from you and your account may be suspended without any liability to FGVL until satisfactory proof of age or the other KYC documents requested for are received by FGVL. FGVL may, in its sole discretion, refuse to offer the Website to any person or entity and change its eligibility criteria at any time. This provision is void where prohibited by law and the right to access the Website is revoked in those jurisdictions.

TERMS OF USE

8. FGVL represents that it is engaged in the business of inter alia operating, maintaining and running an online platform, facilitating buying and selling of all kinds of vehicles, products and services through electronic commerce and owns and maintains a portal on the internet to facilitate sale of automobiles both new as well as used/pre-owned/surrendered/repossessed vehicles as per the specification provided by seller of the vehicles.
9. You understand and agree that the Website is merely a platform to facilitate sale of vehicles and is not a party to the transaction between you and Seller of the respective 6 (six) Vehicles in any respect. You also understand and agree that FGVL is not the seller of the vehicles, does not inspect, nor guarantee the condition or delivery of the vehicles or the vehicle transfer related documents. You understand and acknowledge that the contract for sale of any of the vehicles or products shall be a strictly bipartite contract between respective seller and you. At no time shall any right, title or interest over the transaction vest with FGVL nor shall FGVL have any obligations or liabilities in respect of such vehicle sale contract. You hereby agree that you have verified the inspection report displayed on the auction platform before participating in the auctions.
10. Any and all decisions and actions of Seller of the Vehicles in relation to and pursuant to this car&bike Auction User Agreement, including the process of identifying Winning Bidders hereunder, are and shall remain subject to the final and absolute approval of Seller of the Vehicles. All decisions made under this car&bike Auction User Agreement shall be final and binding on all the Registered Bidders and by participating in the process contemplated in this car&bike Auction User Agreement, the Registered Bidder waives all claims, and agrees that no claims shall lie against FGVL in any respect in relation to the above approval and decision-making process.

ABOUT THE AUCTION

11. The auction that will be conducted for 6 no. of vehicles on the Website for registered users only. User agrees to pay INR 101 (One Hundred and One) as caution deposit for registration purpose. If the highest bidder refuses to make payment, FGVL shall have right to forfeit the caution deposit. Registered users can participate in all auctions held for 6 (six) no.s of Vehicles. If the same user is the highest bidder on more than 1 auction, user shall have to forfeit the other auction(s). Each of the 6 no. of Vehicles will have a reserve price, bidding will start at the reserve price.

ELIGIBILITY CRITERIA

12. The auction is open for participation only to the residents of India who are at least 18 years of age on the date of registering for the auction on the Website. Only those Users meeting the above-mentioned criteria will be eligible to bid in the auction conducted on the Website.
13. Corporate entities incorporated in India and having their registered office in India may also participate in the auction subject to fulfilling the following eligibility criteria;
 - (a) The corporate entity that intends to register for the auction must be incorporated in India, and must not be controlled by companies incorporated in or persons domiciled in jurisdictions where the standards of financial regulation and disclosure are unacceptable to FGVL.
 - (b) In addition to any other criteria in this regard, corporate entities bidding in the auction must not be controlled by persons or entities incorporated/domiciled in jurisdictions which:
 - offer themselves or are perceived to offer themselves as a place to be used by non- residents to escape high taxes in their country of residence;
 - adopt the laws and administrative practices under which businesses and individuals can benefit from protection against scrutiny by foreign regulatory authorities;
 - demonstrate a lack of transparency in the operation of the legislative, legal or administrative provisions;
 - do not follow globally accepted norms for know your client regulations; or
 - lack a competent legal framework for the prevention of money laundering or such other economic offences.
14. A corporate entity registering for the auction will only do so through an authorized representative of the corporate entity. You warrant that you are the authorized representative of the corporate entity on whose behalf you have registered for the auction and have the power to enter into and bind the corporate entity into the Auction User Agreement.
15. Employees of FGVL, FGVL's group companies, affiliates and their immediate family members are not allowed to participate in the auction. For the purposes of this clause an immediate family member shall mean spouse, parents, siblings, children, grandchildren or in- laws.
16. Each Bidder must be competent to contract under the Indian Contract Act, 1872 and must not be prohibited under the laws of India from bidding in this auction.
17. A person or corporate entity shall, not be considered competent to bid in this auction and shall be disqualified from placing bids if FGVL in its sole discretion incurs at any time before, during or after the auction that such person or entity does not meet the eligibility criteria mentioned under this car&bike Auction User Agreement or for any other reason, which in the opinion of FGVL renders such Registered Bidder, or any of its directors, managing partners or chief executive officer, unfit to participate in the auction.

REGISTRATION FOR THE AUCTION

18. You must register on the Website before using the Website or placing any bids, however you can browse the Website without registering. You must complete an on-line registration form available on <https://www.carandbike.com/auction-registration/dhanteras> to register on the Website.
19. Users can register themselves on the above-mentioned URL starting from 31st October 2023 from 12:00 PM IST. Registration for the auction will be accepted till 06:00 PM IST on 3rd November 2023 and no further (hereinafter referred to as the "Registration Window"). FGVL at its sole discretion, reserves the right to either extend or cut short the Registration Window.
20. To register as a User in the car&bike Auction you are required to provide all the details as mandated on the Website.
21. The User agrees that the User has read, understood and will abide by the auction rules (hereinafter referred to as the "Auction Rules") displayed on the URL <http://auction.carandbike.com>.
22. The User must be a resident of India and must be at least 18 years of age on the date of registering for the auction on the Website. Only those Users meeting the above-mentioned criteria will be eligible to bid in the auction conducted on the Website.
23. The login credentials, that will be auto generated at the time of registration of the User on the Website, should be kept confidential by the User and should not be shared with anyone.
24. If you use the Website, you are responsible for maintaining the confidentiality of your account and password and for restricting access to your computer to prevent unauthorised access to your account. You agree to accept responsibility for all activities that occur under your account or password. You should take all necessary steps to ensure that the password is kept confidential and secure and should inform us immediately if you have any reason to believe that your password has become known to anyone else, or if the password is being, or is likely to be, used in an unauthorized manner. Please ensure that the details you provide us with are correct and complete and inform us immediately of any changes to the information that you provided when registering for the auction. FGVL, at its sole discretion may allow or disallow, such requests from you to change the information that you provided when registering for the auction. You may write to Support@carandbike.com from the same email address used for your registration, if you are required to make a request for a change of information related to your account on the Website.
25. Each registration is separate for every User. To access certain parts of the Website i.e. the auction room, you are required to enter your individual User Name and Password (hereinafter referred to as "Login Credentials"). Therefore we do not permit any of the following:
 - a. Sharing your Login Credentials with anyone;
 - b. Any part of the Website being cached in proxy servers and accessed by individuals who have not registered with the Website as Users of the Website;
 - c. Multiple Users on a network accessing the Website through a single Login CredentialIf FGVL has reason to believe that the Login Credentials of a particular User is being used in any of the aforementioned ways, FGVL reserves the right to cancel access rights to the Website immediately without notice, and block access to anyone accessing the Website from that IP address or using such Login Credentials.
26. You agree to comply with all requests made by FGVL for proof of identity and references as to character and/or financial standing at any time prior to, during, or post your registration as a User of the Website.
27. Without limiting any other remedies available to FGVL under the car&bike Auction User Agreement, FGVL may suspend and/or terminate your registration if it has any reason to suspect that you have engaged in, or have in any way been involved in or linked to any fraudulent activity in connection with the auction or your use of the Website or that you have misused the Website or the bidding process or breached your obligations under the car&bike Auction User Agreement.

You must not attempt at any time to do anything which interferes with the proper working of the Website or of any auction or which will put an unreasonable or disproportionately large load on the Website's infrastructure.

28. You shall not use the Website to transmit or store material, which is obscene, racist, threatening, menacing, offensive, defamatory, and abusive, in breach of confidence, in breach of any intellectual property right or which is in breach of any applicable law.

BIDDING PROCESS

29. The auction will be conducted as per the Auction Rules that are to be read as a part and parcel of this car&bike Auction User Agreement.
30. The auction will commence on 02nd November 2023 at 12:00 PM and will end on 03rd November 2023 at 06:00 PM (hereinafter referred to as the "Auction Window").
31. Whilst the Winning Bidders will be awarded no more than one (1) vehicle, the Registered Bidders may place unlimited bids during the Auction Window on the platform in multiple of INR 1,000 with a minimum of INR. 1,000 (Thousand) and maximum of INR 10,000/- (Ten Thousand) as set by FGVL.
32. FGVL, at its sole discretion may either reduce or increase the bid limits of minimum of Rs.1000 (Thousand Only) and maximum of Rs. 10,000/- (Ten Thousand Only) at any time during the Auction Window without notice to the Registered Bidders.
33. The bids for the vehicle may be placed by a Registered bidder till the closing time of the Auction Window.
34. You acknowledge and are aware that FGVL has placed a reserve price (a minimum selling price for the vehicle on auction which hereinafter is referred to as the "Reserve Price") on the vehicle being auctioned and agree to pay such Reserve Price when required. The Reserve Price on the vehicle throughout the Auction Window will be displayed once Auction goes live on website.
35. Subject to these terms and conditions, the Registered Bidder, whose bid has, met and exceeded the Reserve Price and has placed the highest bid at the end of the Auction Window i.e. 03rd at 06:00 PM will be Winning Bid and the Registered Bidder with the Winning Bid will be adjudged as the Winning Bidder by FGVL for each auction held for 3no.s of vehicles. Any dispute as to the bidding process, selection of the Winning Bidder and the selection of the Winning Bid will be settled by FGVL at its absolute discretion. Subject to these terms and conditions, on conclusion of the bidding process the Winning Bidder's bid shall form a contract for sale between the Winning Bidder and Respective Seller, which unless otherwise specified in writing by Respective Seller, shall incorporate these terms and conditions.
36. The Registered Bidder agrees that each bid made by a Bidder shall constitute an offer which is legally binding on the Registered Bidder.
37. The Registered Bidder's quotation/bid on the vehicle only means that the Registered Bidder is making an offer to the Respective Seller to buy the listed vehicles and that Respective Seller at its own discretion may choose to accept or not accept such offer. A quotation does not entitle the Registered Bidder to have a first right to buy the vehicle offered in the auction. The final decision for sale of the vehicle being offered at the auction is at the sole discretion of Respective Seller. FGVL's sole liability to an unsuccessful Registered Bidder under this car&bike Auction User Agreement is to refund the Caution Money collected from the Registered Bidder as per the terms of the Auction Rules.
38. By placing the Winning Bid, the Winning Bidder agrees to be bound by the conditions of sale imposed by FGVL in their order taking form, which the Winning Bidder will be required to sign before getting the vehicle registered in the Winning Bidder's name. If you are registering on the Website as a business entity, you represent that you have the authority to bind the entity to this car&bike Auction User Agreement.

39. The Registered Bidder also agrees that any quotation that the Registered Bidder places on the vehicle listed on the Website is legally binding on the Registered Bidder and that if the Registered Bidder is declared to be the winner of the auction, the Winning Bidder will fulfill its purchase commitment by paying the amount specified under the Winning Bid for the vehicle and taking delivery within the timeframe set by FGVL on the website and as per the terms of the Auction Rules.

SELECTION OF THE WINNING BIDDER

40. On conclusion of the auction and after the end of the Auction Window, FGVL will notify the Registered Bidder by SMS, phone call or email (the "Notification") of whether the Registered Bidder has been declared as the Winning Bidder. Registered Bidders who are not adjudged as the Winning Bidder by FGVL will be notified to that effect by way of SMS or email. The Registered Bidders will be contacted on the registered number/ email id which shared with FGVL by the Registered Bidder at the time of registration.
41. Authorized representatives of FGVL will try to contact the Winning Bidder on a best effort basis and calls will be made to the Winning Bidder between 10 AM and 5:30 PM within 3 days from the end of the Auction Window. In case of no-response from the Winning Bidder within 3 days of the Notification being sent to such Winning Bidder, the Caution Money paid by such Winning Bidder will be forfeited and the next highest bid will be declared as the Winning Bid by FGVL and the Registered Bidder who placed the said bid will be adjudged to be the Winning Bidder.
42. You agree that only the communication received by you from emails containing the domain name "@mahindra.com" and/or "@carandbike.com" shall be treated as a valid communication from the authorized representatives of FGVL and that you shall not act upon any other email, telephonic or SMS communication received from any other phone number or e-mail address claiming to be that of an authorized representative of FGVL. If an authorized representative of FGVL calls you through any phone number, such authorized representative shall send you an email with the domain name "@mahindra.com" or "@carandbike.com" recording the telephonic conversation.
43. You agree that FGVL will be responsible in any manner, if the authorized representatives of FGVL are not successful in contacting you over due to the following reasons;
- (a) If, your phone line being busy
 - (b) If no answer is received
 - (c) Poor call conditions/ unclear reception
 - (d) If your number is engaged
 - (e) If call drops occur
 - (f) Or due to any other reason that could render a call unsuccessful or terminate it
44. The Winning Bidder upon receiving a call from the authorized representatives of FGVL shall be informed by such authorized representative of the steps to be taken by the Winning Bidder in completing the payment as per the Winning Bid and in completing the KYC (E.g. PAN Card (mandatory), Voter ID/ Driver's license/ Aadhar Card) required to register the vehicle in the name of the Winning Bidder.
45. In addition to the above you also agree to provide all such information as requested in the order taking form and to execute the sale agreement provided by Respective Sellers for the vehicle being auctioned under the car&bike Auction User Agreement.
46. The Winning Bidder will be required to submit the aforementioned documents/information within 2 days of the Notification received by such Winning Bidder, failing which such person will be disqualified and the Caution Money and any other amount so deposited by such person will be forfeited.

47. Upon winning the auction, and on receiving the call or email from the authorized representatives of FGVL, the Winning Bidder will be required to share a confirmation on mail regarding the same. The colour/variant of the vehicle cannot be changed under any circumstances and no such change requests will be entertained by FGVL.
48. Please note that vehicles colour displayed on car&bike website may slightly differ from the actual colour of the vehicle.
49. The Winning Bidder will be required to pay the amount as per the accepted Winning Bid and as notified by the authorized representatives of FGVL within 3 days of receiving the Notification and in case of failure to pay such amount within the number of days specified herein, the Caution Money will be forfeited and the next highest bid for the vehicle received will be adjudged the winner of the auction by FGVL.
50. You agree that the timelines for payment and submission of other information under this car&bike User Agreement may be revised/ reduced or increased at the absolute discretion of FGVL without any prior notice to the Registered Bidder.
51. The Winning Bid amount paid by the Winning Bidder will be accounted as follows;
 - a. An amount equivalent to and inclusive of the Winning Bid, the registration fees, transport charges, the insurance charges and any other local levies as decided by FGVL will be retained by the Respective Seller of the Vehicle (hereinafter referred to as the "Vehicle Price"). The Caution Money paid by the winner of the auction will be refunded upon completion of the bid process.
52. You also agree that if you are adjudged the Winning Bidder by FGVL, the right, title and interest over the vehicle won by you under the auction will be transferred to you only upon payment by you in full to the seller's account respectively and after registration of the vehicle in your name.
53. The Winning Bidder will deposit an amount of Rs 1,00,000 (Rupees One Lakh only) within 48 hrs and the balance payment as per the Winning Bid within 4 days of the Notification received by such Winning Bidder. Payment of the afore-mentioned Rs. 1,00,000 (Rupees One Lakh) and the Winning Bid amount will be made in favour of Respective Seller as communicated to the Winning Bidder in writing. The payment mode will be Bankers Cheque/ Bankers Draft or an online NEFT / RTGS transfer in favor of Respective Sellers of 6 vehicles. The bank account details to which the payment is to be made will be communicated by FGVL in its communications to the Winning Bidder.
54. Upon payment of the complete amount quoted in the Winning Bid by the Winning Bidder and upon providing the required information as per the KYC requirements imposed by FGVL or its dealers, FGVL will deliver the vehicle through a local dealer of its choice to the Winning Bidder.
55. The vehicle won by the Winning Bidder in the auction will be invoiced and registered only in the name of Winning Bidder or in the name of a close relative. Transfer or change of name at the time of delivery / registration is not allowed. The Vehicle will only be registered in the name of the Winning Bidder or in the name of such close relative in whose name the Winning Bidder requests Respective Seller to register the vehicle. For the purpose of this car&bike Auction User Agreement, a "close relative" shall only mean parents, siblings, children and grandchildren who are permanent residents of India and above the age of 18 years as on the date when the name of the Winning Bidder is declared by FGVL. In case, as per the request from the Winning Bidder, the vehicle is to be registered in the name of a close relative, such close relative shall be required to fulfill all the KYC requirements and execute such documents that FGVL mandates, for the sale of the vehicle and the registration of the vehicle in the name of such close relative.
56. For the Winning Bidder, true and accurate KYC after being adjudged the winner of the auction is a MUST. Refusal to complete the KYC requirements imposed by FGVL within 5 days of the Notification will result in the winner of the auction forfeiting the Caution Money and any other amount so deposited by such person.
57. Standard warranty as provided by Respective Seller will be applicable to the auctioned vehicle as per Respective Seller's guideline/ policy except where warranty offered by OEM is still valid.

58. The insurance provided by Respective Seller to the vehicle won by the Winning Bidder will be a comprehensive insurance.
59. The Winning Bidder's name will be published/notified to the general public on 10th November, 2023.
60. The Registered Bidders of the Website hereby agree to allow FGVL to use their name, photographs and videos in their marketing campaign.
61. The Registered Bidder warrants and represents that any and all information including any communications, software, photos, texts, video, graphic, music, sounds, images and other material submitted or recorded in any manner by the Registered Bidder will be licensed to FGVL for its use in the marketing material and that such information or material submitted by the Registered Bidder does not infringe upon any other individual or organizational rights (including without limitation, intellectual property rights). The Registered Bidder hereby agrees to indemnify FGVL from any and all damages, claims and actions in India and abroad arising from an infringement or alleged infringement of the aforementioned rights of an individual or organization.
62. The vehicle won through the auction will be delivered to the Winning Bidder within a maximum of 60 days from date of Respective Seller receiving the full and final Winning Bid amount either directly from the Winning Bidder or through their bank subject to fulfillment of the KYC requirement imposed by FGVL and after registration of the vehicle in the name of the Winning Bidder. You agree that upon payment of the Winning Bid Amount to the Seller respectively, the Winning Bidder will have to produce proof of such payment to Respective Seller. Respective Seller will within 5 days of you producing such proof of payment, cross check the payment details with its own records. You agree that the vehicle registration and delivery to the Winning Bidder will be done by Respective Seller only after Respective Seller receiving confirmation from of having received successful bid amount and that FGVL will not be responsible for any delay in the registration and delivery of the vehicle to the Winning Bidder, due to a delay in receiving confirmation from Respective Seller of having received the bid Money from the Winning Bidder. FGVL will not be held responsible for any delay in the delivery of the vehicle that occurs solely due a Force Majeure situation OR due to the delay by winner of the auction in fulfilling the KYC requirements, OR due to any other reason solely attributable to the Winning Bidder.
63. Respective Seller will provide a receipt of payment to the payee upon receiving the funds in full towards the Vehicle Price in its account.
64. For those Registered Bidders who had paid the Caution Money but did not win the auction, the refund of the Caution Money will be initiated immediately upon such Registered Bidder receiving the Notification. Such refund will be made by the third-party payment gateway to which the Caution Money was paid by the Registered Bidder. Refunds shall be made back to the same source from which the Caution money was paid within a maximum of 30 days from the date when the Registered Bidder received Notification by FGVL that the refund has been initiated. The User agrees that FGVL will be not held responsible for any delay or failure in the refund of the Caution Money by the third-party payment gateway.
65. In addition to the rights granted to FGVL under the privacy policy, by giving a quotation on a vehicle, you agree and allow FGVL to provide to its customer or to its dealers or a third-party service provider, your personal information for promotion and marketing activity.
66. In the event of any violation by you, of the car&bike Auction User Agreement, and other terms and conditions governing your use of the Website, FGVL may suspend or deactivate your access to the Website and any bid placed by you will be deemed redundant along with the forfeiture of your Caution Money. You may also be liable for legal action in a court of law for reneging on your commitment to purchase in an auction format agreed by you as legally binding upon yourself by way of your participation on the Website.

AVAILABILITY OF THE WEBSITE

67. FGVL will do their utmost best to ensure that availability of the Website will be uninterrupted and that transmissions will be error-free. However, due to the nature of the Internet, this cannot be guaranteed. Also, your access to the Website may also be occasionally suspended or restricted to allow for repairs, maintenance, or the introduction of new facilities or services at any time without prior notice. We will attempt to limit the frequency and duration of any such suspension or restriction. This Website or any portion of this website (including but not limited to any copyrighted material, trademarks, or other proprietary information) may not be reproduced, duplicated, copied, sold, resold, visited, distributed or otherwise exploited for any commercial purpose without express written consent of FGVL and / or its affiliates, as may be applicable.

NO BID MANIPULATION

68. Price manipulation of any kind directly or indirectly by communication with the other Registered Bidders of the Website is prohibited and may result in the disqualification of such Registered Bidders who are found indulging in such price manipulation.