

# CONDITIONS OF SALE FOR LIVE AUCTIONS AND TENDER SALES

1. The conditions of sale and all other contents of any catalogue are subject to amendment by the Auctioneers by the posting of notices, by oral announcement made by the auctioneer prior to or during the sale, or by way of an agreement in writing signed by the parties concerned.
2. The Buyer shall pay 15 per cent Buyers Premium (including Value Added Tax) in addition to the hammer price and Value Added Tax (VAT) on the hammer price at the prevailing rate if applicable. The auctioneer, when acting as agent for the seller may also receive commission from the Seller.
3. All lots which term shall include all forms of personal property whatsoever and fitted or affixed to land - are offered for sale subject to these Conditions, no variation of which shall be valid unless made in writing and signed by a person duly authorised by the Auctioneer. In these Conditions "the Auctioneer" shall be Fyrebrand Limited t/a CJM Asset Management or their servant or agent, who has agreed to auction any lot. By making a bid for any lot, the person making the bid warrants that he has read, makes his bid upon and agrees to be bound by these Conditions, and further warrants that he has due authority and capacity to make the bid, and binds both himself and any employer or principal to honour any contract resulting therefrom. Any bid shall be deemed to be an offer by the Buyer (a term used herein as including the bidder and any principal or employer of the bidder) to purchase any lot offered for sale upon these Conditions alone.
4. The Auctioneer offers any lot for sale as agent for and on behalf of the person from or through whom instructions for sale have been received (the Seller) and not on the Auctioneer's own behalf. The sale of any lot shall be concluded and binding at the moment when the lot is knocked down. The highest bid will be accepted save in exceptional circumstances, such circumstances to be determined by the Auctioneer whose decision shall be unchallengeable.
5. The Auctioneer shall have the sole and exclusive right at the site of the auction to determine all matters whatsoever concerning the conduct and/or effect of any auction sale or purported sale and without prejudice to the generality of the foregoing, he shall be entitled to resolve disputes between bidders, to reject any bid and to withdraw, divide or consolidate any lots. He will further be entitled to require proof of identity and/or of authority from any bidder.
6. The Buyer must forthwith identify himself and any principal or employer, together with appropriate means of identification to the Auctioneer, his servants or agents and if required to do so must pay 25 per cent of the sale price forthwith by way of deposit. The total sale price, less any such sum, must be paid to the Auctioneers at his office or elsewhere as he may direct. Payment in full shall be deemed not to have occurred until any negotiable instrument has been honoured in full (or cash has been paid) such payment to be made within the time specified in the sale notes or in default of the specification by 5 o'clock pm on the day of the auction or on the next complete working day (excluding Saturdays). Time of payment shall be of the essence. The Buyer shall not be entitled to remove any lot from its position at the time of sale until the purchase price of that and any other lot purchased at the auction has been paid in full and in default of payment as aforesaid the Auctioneers shall have a lien upon all lots purchased by the Buyer during the same auction and shall be entitled to rescind the sale in respect of any lot or lots for which full payment is not made in due time, forfeit any deposit paid in respect of them, and resell the same without any right of compensation in the Buyer. The Auctioneer will also be entitled to charge interest upon any unpaid balance at the rate of 1 per cent above Base Rate from time to time and to charge for storage arising after the time for removal at the rate of £20 per lot per day until he elects to rescind the sale, if at all, which election he may make at any time after such non-payment.
7. The title to any lot shall remain with the Seller until the full sale price and any storage and interest charges have been paid to the Auctioneer, but the risk of damage to or loss of the lot by whatsoever cause and in whatsoever circumstances shall be transferred to the buyer at the moment when the lot is knocked down.
8. The Auctioneer warrants that he will only sell lots which he believes to be owned by the Seller or to which the Seller will be able to pass a good title but should it transpire that the Seller's title to any lot is defective or that the Seller cannot pass a good title to the Buyer, the Auctioneer shall be under no obligation to the Buyer other than to use his best reasonable endeavours (short of litigation), to procure the transfer of a good title to the Buyer and to assist the Buyer in exercising any remedies that he may have against the Seller.
9. The Buyer shall remove any lot for which he has paid in full plus other charges, if any, by the time for removal, which shall be either the time for payment or the time stated in any sale notes of the Auctioneer, whichever shall be the later, but provided that no lot shall be removed without the Auctioneers express written consent while the Auction is continuing. The Buyer shall be responsible for the removal of the articles and such removal must be carried out safely and lawfully. Flame cutting, the use of explosives or any other potentially hazardous or inflammatory process shall not be permissible at the site without express written consent. The Buyer agrees to insure against and to indemnify the Auctioneer and the Seller against any and all claims arising in respect of injury or damage to person or property, whether real or personal, caused by or in connection with the acts or omissions of the Buyer, whether caused by himself, his servants or agents or his principals or employer. The Auctioneer may ask the Buyer to provide a Risk Assessment and Method Statement prior to the removal of any lot. Such Risk Assessment and Method Statement must be approved by the Auctioneer and/or the Seller prior to the Buyer commencing the removal process. **Buyers must insure against these risks.**
- 9ii. All sales are made on a Buyer to remove basis. Assistance in the removal of any purchased lots by Auctioneers' staff or the Sellers' staff is undertaken solely as a courtesy to clients and will only be undertaken at the Auctioneers' discretion. In no event will the Auctioneers or the Seller be liable for any loss or damage regardless of cause. (Whilst the Auctioneers or the Seller may provide details of removal contractors those named do not come with any recommendation).
- 9iii. It is expressly brought to the Bidder's attention that, at the time of sale, any item of plant, machinery or equipment contained in the lot(s) may not necessarily comply with the Health & Safety at Work Etc. Act 1974, Environmental Protection Act 1990 or any other Act or Acts or regulations thereunder governing the use of that plant, machinery or equipment in a working environment. Successful Bidders for any such plant, machinery or equipment are hereby required to ensure that the use of any such plant and equipment at a place of work within the United Kingdom does not contravene such relevant Act or Regulation thereunder applicable thereto.
- 9iv. It is expressly brought to the Bidder's attention that certain types of plant or main service installations could contain blue or white asbestos, dangerous chemicals etc which, if not handled correctly during their removal from site, could be in breach of the Health and Safety at Work Act 1974 section 2-9 and Control of Substances Hazardous to Health Regulations 1988 (COSHH) or any other current legislations covering the use of such substances in a working environment.
- 9v. All Buyers must comply with all current legislation and regulations in relation to the removal/disposal of waste including hazardous waste and may be required to satisfy CJM Asset Management in relation to their disposal/removal procedures. Where waste materials are removed all work must be undertaken by an approved and licensed contractor.
- 9vi. The Buyer or his designated removal contractor will not commence any work on his purchase until he has demonstrated to the Seller's reasonable satisfaction that the requirements of all Health & Safety and CDM (Construction, Design & Management) Regulations applicable to the removal of the equipment have been fulfilled. The Seller's decision on this is final.
- 9vii. The Auctioneer reserves the right to request that the Buyer pays a bond in respect of potential damage to the auction premises prior to commencing removal. (See also paragraph 12 below).
10. All conditions and warranties as to the condition, quality, description or fitness for any purpose whatsoever of any lot sold by the Auctioneer are hereby expressly excluded. Neither the Auctioneer nor the Seller will be bound by or liable for any representation of any kind whatsoever, whensoever or howsoever made. Neither the Auctioneer nor the Seller shall be liable for any loss or damage whether caused by negligence or otherwise of either or both of their servants or agents and without prejudice to the generality of the foregoing neither the Auctioneer nor the Seller shall be liable for any loss of profit, business or production or similar or other loss whether direct or indirect or consequential, however caused.
- 10i. **In the circumstances any potential Buyer should rely solely and exclusively upon his own inspection of any lot and should not treat statements made in sale particulars or, before and during the auction by the Seller or the Auctioneer either as representations or to be relied upon. N.B: a sale by auction is not a consumer sale. Sale of Goods Act 1893 section 55(7) and Unfair Contract Terms Act 1977 Section 12(2). No lot is warranted or held out to be merchantable or safe for use or complying with statutory requirements for use, display or movement. The Auctioneer, his servants and agents have no authority to make representations.**
- 10ii. The Buyer of a "motor vehicle" is responsible for complying with the provision of the Road Traffic Act 1972 and all relevant regulations made under section 40 thereof (including the Motor Vehicles (Construction and Use) Regulations 1973) and any statutory modification thereof.
- 10iii. Furniture & Furnishings (Fire Safety) Regulations (1988): lots sold where they are applicable to this act are sold in the understanding that the Vendor(s) does not represent them as being in a condition, which makes them suitable for domestic use. The Buyers are reminded that if nevertheless any of the goods or articles are intended to be supplied in due course for domestic use the Buyers shall, before supplying them for such use, ensure that they comply with the obligations required under the Furniture & Furnishings (Fire & Safety) Regulations 1988.
11. The buyer hereby undertakes to ensure that any lot he purchases will be used, moved or displayed whether at the site of the auction or elsewhere only when he has ensured that such use and/or movement and/or display is lawful and safe.
12. Should a Buyer, by himself, his servants or agents cause damage in any way to the site of the auction or damage to or loss of any lot thereat, the Auctioneer shall be entitled to exercise a lien in respect of any and all lots purchased by the Buyer until such damage or loss has been paid for in full, whether or not the lots or any of them have been paid for in full, such loss and damage to be assessed by the Auctioneer whose decision shall be final and unchallengeable. The Auctioneer's assessed sum shall be paid by the Buyer upon receipt of invoice therefore and payment shall be made forthwith, time being of the essence.
13. If, before title to any lot has passed to the Buyer thereof, the Buyer, being an individual, dies, enters into a composition or arrangement for the benefit of his creditors or has a Receiving Order in Bankruptcy made against him or being a body corporate, has a Receiver or a Receiver and Manager appointed or goes into liquidation or enters into a composition or arrangement for the benefit of its creditors, then contract for the sale of such lots shall be automatically and without notice rescinded unless the Auctioneer elects otherwise within 2 working days of written notice of such an event. Upon rescission, any deposit paid by the Buyer shall be forfeit and the Auctioneer shall be entitled to exercise the rights set out in paragraph 6.
14. If a Buyer is permitted to take a possession of any lot before the full sale price has been paid, the Seller and/or Auctioneer shall be entitled to enter upon any premises of the Buyer or under his control in order to repossess such lot.
15. If, before title passes to the buyer under these Conditions, the buyer nevertheless purports to resell or otherwise dispose of the lot or any interest therein, the Buyer shall hold the proceeds of such a sale or other disposition upon trust for the Auctioneer and the Seller jointly until title passes to the Buyer under these Conditions if at all, and in the meantime the buyer shall not deal with, charge or dispose of such proceeds except with the written consent of the Seller, or of the Auctioneer.
16. These Conditions shall be construed in accordance with and governed by English Law save in respect of sales in Scotland and Northern Ireland which shall be construed in accordance with and governed by Scottish and Northern Irish Law respectively. The Uniform Law on the International Sale of Goods shall not apply to this contract and the application of the United Nations Convention on Contracts for the International Sale of Goods of 11<sup>th</sup> April 1980 shall be excluded.

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