

TERMS AND CONDITIONS OF SALE – MACHINERY

1. INTRODUCTION

The following defining terms are used in these conditions:-

“Auction” Means any auction conducted by Clarke and Simpson Auctions Ltd either at the premises owned by them or elsewhere (including any internet based auction);

“Auctioneer” Means Clarke and Simpson Auctions Ltd auctioneer or i-Bidder/ Bid Spotter as appropriate;

“Bidder” Means a bidder at an auction, including the bidders personally present at the venue and those bidding by telephone or over the internet or otherwise;

“Buyer” Means the bidder whose bid was the last bid when the auctioneer concludes the bidding;

“Conditions” Means these Terms and Conditions of Sale;

“Hammer Price” Means the level of bidding reached (at or above any reserve) when the auctioneer brings the bidding to a close;

“Lot” Means any property accepted by Clarke and Simpson Auctions Ltd for offer at auction;

“Vendor” Means the individual or other party offering a lot for sale.

2. DESCRIPTION

No warranty is given or implied by the description in the catalogue. Each lot is sold in its condition at the time of sale with all faults, defects, imperfections and errors of description (if any). Whilst every endeavour has been made to describe the items adequately and properly, the buyer shall deem to have inspected the lot at time of purchase. All catalogues and Buyer’s guides are for information only and do not form part of the contract.

3. VARIATION OF LOTS

The auctioneers reserve the right to withdraw, consolidate or divide any lot or lots or submit them in any order that they deem desirable. The auctioneers will use every endeavour to ensure that all lots listed in the catalogue are presented for sale but cannot accept any responsibility for the lots not being presented. Nor can they entertain any claim for expenses incurred in abortive attendance at the sale.

4. THE AUCTION

All auctions are conducted at the absolute discretion of the auctioneer. The auctioneer shall conduct the auction with reasonable skill and care. The vendor reserves the right to sell subject to reserve price in respect of all lots. What constitutes a bid shall be at the absolute discretion of the auctioneer, acting with appropriate skill and care. The auctioneer shall have the right to refuse any bid in all cases but most notably when such a bid does not exceed the previous bid by at least 10% or such a proportion as the auctioneer shall in his absolute discretion direct. Where two or more bids at the same level are simultaneously received by the

auctioneer, the auctioneer at his absolute discretion shall determine which bid to prefer. Subject to the foregoing where two or more bids are at the same level are simultaneously received by the auctioneer, any bid submitted in the room shall take preference over a bid submitted by telephone or internet at the same level. Any bid made or attempted by telephone or over the internet will only be deemed to have been made if received by the auctioneer. The auctioneer has the right at his absolute discretion to refuse admission to his premises or attendance at (or participation in) any auction by any person. In the case of any dispute, the auctioneer shall be sole arbitrator in any matters arising during or out of the sale.

5. BIDDERS

All bidders will be required to register their particulars, bidders attending in person and those accompanying them will be required to provide photo ID and separate confirmation of address prior to viewing or taking any part of the sale and before entering any part of the premises to view. All bidders accept full liability for all bids submitted. Subject to the clause in this document headed "The Auction", the highest bidder at the close of bidding shall be the buyer. Any dispute about a bid shall be settled at the auctioneer's absolute discretion. Bidders are all deemed to act as principles unless there is prior written acknowledgement by the auctioneers that a bidder is acting as an agent for a named principle. Bidders are strongly encouraged to attend the auction in person. Bidders shall be responsible for any decision to bid for a particular lot and shall be deemed to have carefully inspected and satisfied themselves as to condition. The auctioneers or their employees or agents shall not be responsible for any neglect or default in doing or failing to do so. Bidders will be given ample opportunity to view and inspect before the sale and prospective buyers must satisfy themselves as to all matters. The auctioneers, their employees or their agents or the vendor accept no liability for the correctness of specific opinions and all conditions and warranties, expressly, implied or statutory are hereby excluded. Number bidding will be used for speed and efficiency as in all our sales. All prospective buyers must complete the form supplied and register in the office prior to bidding at the sale to receive a number for bidding.

6. PAYMENT

All lots shall be paid for upon the day of the sale or receipt of invoice and the auctioneers reserve the right to refuse removal of lots when payment is proposed by cheque and the buyer is unknown to them. To avoid such inconvenience payment should be made by cash, bankers draft or debit card and any alternative form of payment (by those unknown to the auctioneers) must be arranged with the auctioneers prior to the sale. Debit card payments will only be accepted on a chip and pin basis with the cardholder present. After the fall of the hammer, the lot shall be at the buyer's risk. It is expressly stated that the auctioneers will not be responsible for its safe custody. Due to Money Laundering Regulations 2007, the auctioneers cannot accept cash payments in excess of £8,500 (inc. VAT) from any one person. All money received will be held in Clarke & Simpson Auctions Limited Clients Account at Barclays Bank plc, 4 Church Street, Woodbridge, Suffolk. Account Number 83428591. Sort Code 20 98 07.

7. OVERSEAS PAYMENTS

Overseas payments should be made by inter-bank transfer using Swift to Barclays Bank plc, 4 Church Street, Woodbridge, Suffolk. Sort Code 20 98 07, quoting Clarke and Simpson Auctions Ltd, Clients Account number 33222276. IBAN Code: GB89 BUKB 2098 0783 4285 91. SWIFT CODE: BUKBGB22.

8. INVOICE ALTERATIONS

After the sale day, Clarke and Simpson Auctions are not able to change or amend any invoice. Buyers should be entirely clear that this includes changing the VAT status of the buyer, or the name and address of the buyer. It will not be possible to transfer lots between buyers after the sale day. here are no exceptions to this rule.

9. DEFAULT

The auctioneers shall act as agent of the vendor only. Any contracts for the sale of a lot shall be formed between the vendor and the buyer. As agents only, the auctioneers shall not be responsible for default by the vendor or the buyer. If any lot is not paid for in full and taken away in accordance with these conditions, or there is any other breach of the conditions, then the auctioneers, as agent for the vendor, shall at their absolute discretion and without prejudice to any other rights they may have, be entitled to exercise all or any of the following rights and remedies:-

- a. to proceed against the buyer for any action of debt or damages for breach of contract;
- b. to rescind the sale of that lot or lots sold by Clarke and Simpson Auctions Ltd to a defaulting buyer;
- c. to resell the lot (by auction or private treaty) in which case the defaulting buyer shall be responsible for any resulting deficiency in the total amount due (after crediting any part payment and adding any resale costs), any possible surplus so arising shall belong to the vendor;
- d. to remove, store and insure the lot at the expense of the defaulting buyer and, in the case of storage, the location of such storage shall be at Clarke and Simpson Auctions Ltd discretion;
- e. to charge interest at a rate of 2% per month of the total amount due to the extent that it remains unpaid for more than two working days after the sale;
- f. to retain that or any lot sold to the defaulting buyer until the buyer pays the total amount due;
- g. to reject or ignore bids from the defaulting buyer at future auctions or to impose conditions before any such bids are accepted;
- h. to apply any proceeds of sale for any other lots due or in the future becoming due to the defaulting buyer towards the settlement of the total remaining due.

10. INDEMNITIES, PENALTIES AND LIMITATIONS OF LIABILITY

Buyers shall pay for any damage done by themselves or their agents during the removal of

their lots. Attendance at the sale shall be at the risk of those attending in respect of both themselves and to their goods and vehicles. Any indemnity under these conditions will extend to all actions, costs, expenses, claims and demand whatsoever suffered or incurred by the person entitled to the benefit of it and the auctioneers declare themselves to be a trustee of the benefit of such indemnity so far as it is expressed to be the benefit of its employees and agents. Whilst the auctioneers endeavour to ensure that the information on their websites is correct, neither party warrants the accuracy and completeness of the material on their website. Also the auctioneers can make changes to the material on their website, or alter the products and prices described on it, at any time without notice. The material on the website may be out of date, the auctioneers make no commitment to update such material. All material on the websites is provided "as is" without any conditions, warranties or other terms at any time. Accordingly to the maximum extent permitted by law, the website is provided to all parties on the basis that the auctioneers exclude all representations, warranties, conditions and other terms which, but for this legal notice, might have effect in relation to the website.

11. ELECTRICAL SAFETY REGULATIONS

All electrical lots are subject to electrical safety regulations and fall within "the low voltage electrical equipment (safety) regulations 1989" and therefore any non-compliant items may only be purchased by a trader who is in the business of repairing or reconditioning such items to comply with these regulations.

12. GENERAL MATTERS

Any notice to any buyer, vendor, bidder or viewer may be given by first class mail or email in which case it shall be deemed to have been received by the addressee forty eight hours after posting or sending. All notices to the auctioneers must be sent in writing and email is not acceptable. Any indulgence extended to any person by the auctioneers notwithstanding the strict terms of these conditions or the terms of consignment shall affect the position at the relevant time only and the respect of that particular concession only; in all other respects these conditions shall be construed as having full force and effect. Their conditions and any disputes or claims arising out or in connection with them or their subject matter or formation (including non-contractual disputes or claims) are governed by and construed in accordance with the law of England. The parties irrevocably agree that the courts of England have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with the agreement or its subject matter or formation (including non-contractual disputes or claims).

13. PUBLICITY

Any catalogue and buyer guide are provided for information only and do not form part of these conditions. The catalogue and the buyer guide may contain additional

terms and conditions. The auctioneers reserve the right to use any photographs, background information and research for publicity purposes both before and after the sale. This includes publication on their website and social media.

14. BUYERS FROM OUTSIDE THE UK

In the context of this sale, this also includes buyers from Northern Ireland following the UK's withdrawal from the EU.

a. A VAT deposit equivalent to UK VAT rate (20%) will be charged on all lots purchased by buyers outside the UK, regardless of whether the buyer has purchased from Clarke & Simpson before.

b. This will be refunded upon valid commercial documentary evidence confirming export from the UK and full traceability provided by the purchaser as to the destination of the items together with

c. The Purchaser's VAT/FISCAL Number (which will be verified with UK Customs & Excise).

This must be provided within ten working days of the sale date to qualify for a refund.

d. Refunds of VAT deposits will be dealt with under H.M. Customs and Excise regulations as set out in the current Notice 703. The minimum requirement of satisfactory evidence of export required to allow a refund is an original Bill of Lading or Certificate of Shipment issued by a recognised Shipping/Transport Company or a S.A.D. stamped by Customs & Excise and clearly identifying the goods which have been exported.

e. If the purchaser is unable to provide Clarke & Simpson with any of the above information, VAT at the standard UK rate will be payable.

15. EXPORT OF GOODS

a. The preparation for machinery for export, including cleaning, obtaining phyto-sanitary certificates and completion of export paperwork, will be entirely at the buyer's cost.

b. Clarke & Simpson will not undertake the preparation for export detailed above.

c. This work must be carried out by an appropriate shipping agent such as James P Dixon Ltd and may involve them removing machinery to their site. Please contact them directly for a quotation on 01359 258034.

16. INSURANCE OF GOODS

All vendors and buyers must be entirely clear that they, as vendor or buyer are solely responsible for the goods standing at the Auction Centre. If required, you must make your own insurance arrangements in this regard.

17. V5 REGISTRATION DOCUMENTS

Unfortunately, some vendors are unable to provide a V5 registration document for tractors and other road registered vehicles which have been sold at auction. As auctioneers, we give no warranty in this regard.

18. FARM SAFETY REGULATIONS

The attention of buyers of agricultural tractors and machinery is drawn to the provision of the Health & Safety at Work Act 1974, the Agricultural (Field Machinery) Regulations 1962, Agricultural (Tractor Cabs) Regulations 1974 and all other acts and regulations applicable to farm safety. Buyers are reminded of the provisions of the above Acts regarding the safety guarding of machinery and implements, and that some of the machinery sold at the Auction Centre may not immediately comply with the regulations issued thereunder. It is an offence to use any machinery which does not comply with the regulations laid down in the Acts and Regulations and accordingly, it is a condition of the contract of sale relating to such machines and implements that any buyer shall satisfy himself as to any statutory requirement for the use of any item and no liability shall rest with the vendors nor the auctioneers. Vendors are required to take sufficient steps to ensure that the lots entered are safe and without risk to health at all times when being set, used, cleaned or maintained by a person at work and in observation of proper health and safety procedures and so far as is reasonably practical, the vendor has carried out or arranged to be carried out, of suitable testing and examination to ensure that there will be no risk to safety (taking into account the age and condition of the lots). The vendor also undertakes to provide the buyer all operators' handbooks and instruction manuals. If required to do so and if possible, the vendor further undertakes to provide the buyer with an explanation about the use for which the lot is designed and about any issues necessary to ensure it will be safe and without risk to health at all times.

19. HEALTH AND SAFETY PRECAUTIONS

The Auction Centre site includes items of working machinery and those persons attending are advised to take all reasonable precautions to avoid accidents. We have a duty to strive to improve safety for both our staff and the public wherever possible and the following precautions must be adhered to by all those entering the Auction Centre.

- a. No tractors or machinery to be left running. Vendors and buyers must at all times maintain supervision of machinery and vehicles when running.
- b. Children and dogs are to be kept under supervision at all times.
- c. Tractors and machinery are not to be driven around the Auction Centre, other than for the purpose of loading or unloading.

- d. Please note that the speed limit at the Auction Centre is 5mph. Please be aware of pedestrians.
- e. Smoking is not permitted within the Auction Centre buildings or around tractors, machinery or engines.
- f. All loader arms are to be lowered and the contents of the buckets emptied.
- g. If starting tractors across the solenoid, please ensure two people are present, one person being in the driving seat having control of the clutch and brakes, and that the tractor is in neutral.
- h. Prior to unloading, please check brakes, clutch and position of the engine stop. These rules apply to everyone attending the Auction Centre with no exceptions. Failure to observe these and other safety precautions or other acts of recklessness could result in exclusion from the Auction Centre on a temporary or permanent basis. All mechanical loading and unloading takes place at the vendors' or purchasers' risk. PERSONS ATTENDING THE AUCTION CENTRE SALE GROUND DO SO AT THEIR OWN RISK.

20. VENDORS' COMMISSION

Vendors shall pay commission to the auctioneers at the following rates:-

- a. Lots 1-2000 - 17.5% of the hammer price (exclusive of VAT) with a minimum charge of £2 per lot
- b. Lot 2001 onwards:
 - i. Lots with a hammer price of £3,001 and above - 6% of the hammer price (exclusive of VAT)
 - ii. Lots with a hammer price of between £1,501 and £3,000 – 7.5% of the hammer price (exclusive of VAT)
 - iii. Lots with a hammer price of between £101 and £1,500 – 10% of the hammer price (exclusive of VAT)
 - iv. All other lots – 15% of the hammer price (exclusive of VAT) with a minimum charge of £5 per lot.
- c. VAT at the standard rate will be charged on all commissions.
- d. Commission at the rate specified in clause 20 above together with the Entry Fees as specified in clause 21 below, shall be payable by the vendor on all lots sold at the Auction Centre.
- e. PAT testing will be undertaken on all qualifying electrical items offered for sale. The charge for this will be £3 plus VAT per item in addition to all other charges.
- f. Lots not forward will be charged at 75% commission based on the reserve price or Auctioneer's estimate.

We guarantee all vendors either the lot or payment. We do not make payment to vendors until we have been paid by the purchaser. We will retain the lot until payment is made.

21. ENTRY FEES

Entry fees on all lots sold, unsold, entered but not forward shall be charged at £1 plus VAT per lot.

22. BUYERS' PREMIUM

All purchases will be subject to the following premium.

- a. Lots 1-2000 – 20% of the hammer price plus Vat.
 - b. Lot 2001 onwards -
 - i. Lots with a hammer price of £2,501 and above - 3.5% of the hammer price (exclusive of VAT) with a maximum charge of £2,500
 - ii. Lots with a hammer price of between £501 and £2,500 - 6% of the hammer price (exclusive of VAT)
 - iii. All other lots - 10% of the hammer price (exclusive of VAT)
 - c. VAT at the standard rate will be charged on all Buyers' Premium
 - d. All purchases made via www.i-bidder.com or www.bidspotter.co.uk will be subject to an administration charge of 2% plus VAT on the hammer price.
- Please be entirely clear that the Auctioneer's decision is final in this regard.

23. ENTRY OF LOTS FOR SALE

All lots must be delivered to the Auction Centre by arrangement with the auctioneers and any reserve prices must be set out in writing and handed to the auctioneers' office at least 96 hours prior to the sale otherwise no responsibility can be accepted by the auctioneers for errors in respect of reserve prices. All lots brought to the Auction Centre must be offered for sale by auction and must not be sold privately before the sale. In the event that any private transaction takes place following a sale whilst the lot remains in the auction centre they must be notified to the auctioneers. Such transactions will be treated as a sale of the lot by the auctioneers. If a lot remains unsold following the sale for which it has been entered and remains in the auction centre, the auctioneers reserve the right to sell such lot at the reserve price without further consultation with the vendor. Following the sale of any tractors, vehicles and other self-propelled machines, the auctioneers shall not pay over the purchase price to the vendor until such time as the vendor has given to the auctioneers the registration document for such tractors, vehicles or other self-propelled machines if the vendor has stated on the entry form that the registration document will be supplied. The auctioneers reserve the right to annul and cancel any sale where the vendor has stated on the entry form that the V5 registration document is supplied and whereupon the said document is not delivered to the auctioneers within fourteen days of the day of the sale. The auctioneers also reserve the right to apply for a duplicate V5 registration document and charge the vendor the DVLA fee for such a duplicate together with an administration fee equivalent to 30% plus VAT of the DVLA charge. Where the vendor does not show the V5 registration document as being supplied these charges will not apply. In the event the sale is rescinded, the vendor will be responsible for any cost of transport incurred in the lot being transferred to or from the auction centre or any other agreed location.

24. TITLE

The vendor undertakes that the items entered for the sale are their sole property and are not subject to any hire purchase, lease, contract hire arrangement or any other contract, and that they shall abide by these Standard Terms and Conditions of Sale. The vendor further warrants that all the information supplied by them or their agents, is accurate and agree to indemnify any buyer against any liability howsoever arising in respect of the goods being received at auction or in respect of any inaccuracies in the above information and against all costs and expenses incurred in dealing with any claim arising in that respect. The vendor certifies that they have notified the auctioneers in writing if any of the items entered have been recorded by any insurance company as a write-off or have been subject to a major insurance claim.

25. ONLINE BIDDING

Clarke and Simpson Auctions Ltd may offer an online bidding service via i-bidder or bidspotter for bidders who cannot attend the sale. In completing the registration on either platform and providing your card details and, unless alternative arrangements are agreed with Clarke and Simpson Auctions Ltd, you:-

- a. authorise Clarke and Simpson Auctions Ltd, if they wish, to charge the card given in part or full payment, including all fees, for items successfully purchased in the auction via i-bidder.com or bidspotter.co.uk, and
- b. confirm that you are authorised to provide these card details to Clarke and Simpson Auctions Ltd through i-bidder or bidspotter and agree that Clarke and Simpson Auctions Ltd are entitled to release the goods to the card holder name and card holder address provided in the fulfilment of the sale.

Please note that any lots purchased via i-bidder.com or bidspotter.co.uk will be subject to an additional 2% commission charge plus VAT at the rate imposed on the hammer price, as detailed under clause 22, Buyers' Premium.

26. REMOVAL OF LOTS

Some of the lots will be in a building and lots in the buildings cannot be removed whilst the sale is continuing in that building. Subsequently lots can be removed during the sale and subject to conditions regarding payment and safety, all lots must be removed by the second Thursday following the sale. Any lots remaining on the site after this time will be charged a storage fee of £50 per day (or any part thereof). Storage charge must be paid in full prior to the release of the goods.

Unless agreed otherwise, Clarke & Simpson Auctions Ltd. reserve the right to re-sell by any means any lots left on site for more than 10 working days following the date of the sale in order to clear the site and retain full proceeds to cover costs. Attention is drawn to buyer's responsibility after the sale as stated previously.

27. HOURS AND MILEAGE

Hours and mileage and other detail is as at the time of cataloguing not at the time of sale. Bidders must satisfy themselves in this regard.

28. EXCLUSION OF LIABILITY

The Auctioneers shall not be liable for any expense, loss, claim or proceedings in respect of personal injury to or death of any person arising out of or in the course of or caused by the sale, except to the extent that the same is due to the negligence of the auctioneers.

29. GOVERNING LAW AND JURISDICTION

For the avoidance of doubt, all contracts entered into between the buyer and vendor and between either of them and the auctioneers on the basis of these standard terms and conditions, are governed by the laws of England and Wales and the parties hereby submit to the non-executive jurisdiction of the English Courts.