

Standard Terms & Conditions of Sale (2/5/2017)

These terms & conditions are subject to any additional special terms & conditions that may have been provided at this auction.

1 DEFINITIONS.

"Auctioneer" means any person who is directly involved in conducting an auction by calling for bids & declaring lots sold and suitably authorised staff of the auctioneer.

"Bidder" means any person who bids for a lot.

"Bidder registration form" means a name & address form to be obtained from the auctioneer.

"Buyer" means any person who successfully bids for a lot.

"Buyer's premium" means any amount payable by a purchaser in addition to the sale price calculated at a rate stated by the auctioneer, in advertisements or as displayed at the auction site.

"Computer hardware" means the mechanical & electronic components of a computer or device including monitor, keyboard, desktop or tower case.

"Legislation: means the Occupational Safety & Health Act (1984) & the Occupational Safety & Health Regulations (1996) & subsequent updates & superseding legislation.

"Lot" means any item or items marked as a lot or described as a lot by the auctioneer.

"Plant & machinery" includes vehicles, machinery, mechanical, electrical & electronic equipment, tools, fixtures, appliances, implements & any component or fitting thereof or accessory thereto.

"Purchaser" means any person who successfully bids for a lot.

"Seller" means any person or entity who sells a lot,

"Software" means the programmes or other operating information used by a computer or device.

2 PUBLIC LIABILITY

2.1 Persons attending the auction site, before, during & after the auction do so solely at their own risk & are to wear enclosed footwear at all times. The auctioneer, his or her agents, employees or principals shall not in any way be liable for any injury sustained to any person or for damage to or loss of property how so ever caused.

2.2 All persons attending the auction site under the age of 16 years are required to be in the care of & supervision of an adult.

3 REGISTRATION

3.1 Prior to the auction each bidder shall complete a bidder registration form & apply for a bidder's number.

3.2 Upon the request of the auctioneer or his or her clerk, a potential bidder may be required to provide his or her full name & residential address immediately.

3.3 A purchaser shall be deemed to purchase as a principal unless at the time of sale or earlier completion of the bidder registration form, the bidder

(a) discloses to the auctioneer that he/she will be bidding on behalf of a principal & shall supply the full name & address of that principal **and**

(b) gives the auctioneer a copy of a written authority to bid for & on behalf of that principal.

4 HIGHEST BIDDER IS THE PURCHASER

4.1 Subject to any reserved price, the highest bidder for each lot shall be the purchaser.

4.2 Subject to condition 5 below, the entry of the purchaser's name or bidder number in the record or book kept by the auctioneer or his/her clerk, shall be binding upon the purchaser & such record or book, together with these conditions & any additional special conditions, shall constitute the whole of the contract between the auctioneer & the purchaser & as between the purchaser & the seller.

5 DISPUTE AS TO BID

If a dispute arises as to any bid, the auctioneer shall at his or her absolute discretion, either determine the dispute immediately or resume the bidding at the last undisputed bid. In either case the dispute must occur before the next lot is offered for bids.

6 AUCTIONEER'S & SELLER'S RIGHTS

The auctioneer & the seller reserve the following rights, which may be exercised by the auctioneer without giving any reason therefor.

- 6.1 Not to offer for sale any lot or part of any lot described in the catalogue or promotional material.
- 6.2 When described as in 6.1 to offer two or more lots for sale as one lot, or part of any lot or lots together as one or more lot(s).
- 6.3 Should such lots referred to in 6.2 not be sold to a successful bidder, to offer such lots as separate lots.
- 6.4 To withdraw any lot or lots from sale.
- 6.5 To refuse to accept a bid or bids from any person or persons.
- 6.6 To refuse admission to or eject from the auction site any person or persons.
- 6.7 To refuse to accept any bid for a lot being less than the sum nominated from time to time by the auctioneer.
- 6.8 To keep secret the existence & amount of any reserve price of a lot prior to the close of bidding or withdrawal from sale of the lot.
- 6.9 In the event that any purchaser shall successfully bid for more than one lot at the auction
 - 6.9.1 To appropriate any monies received from that purchaser in satisfaction or partial satisfaction of the purchase price due in respect of any one or more of such lots to the total or partial exclusion of amounts due in respect of any other such lot or lots as the auctioneer shall see fit; **and**
 - 6.9.2 To elect at any time to treat each such contract for the sale of each lot as interdependent with each other & default under any such contract shall be default under all such contracts.
- 6.10 To bid on behalf of any prospective purchaser with or without disclosure.
- 6.11 In the event that any lot is not sold at the auction to offer to sell the same immediately after the auction by private sale but otherwise subject to these conditions **and**
- 6.12 To permit the seller to make one or more bids for any lot.

7 DEPOSIT

- 7.1. On the fall of the hammer, the auctioneer may require & the purchaser shall pay to the auctioneer or his/her clerk, by cash, EFT, EFTPOS or bank cheque, a deposit of 20% of the purchase price for the lot purchased.
- 7.2 If a purchaser fails to pay the deposit the auctioneer may put up the lot for bidding & resale, & the defaulting purchaser's bid shall not be taken again at the resale
- 7.3 If the resale price is lower than the price obtained on the first sale the difference in price shall be an amount recoverable by the auctioneer or seller as a debt due & payable by the original purchaser.

8 FAULTS & MISDESCRIPTION

- 8.1 A sale shall not be invalidated by reason of any fault or defect in a lot & the purchaser remains bound to take delivery without any allowance or reduction in the purchase price.
- 8.2 A sale shall not be invalidated by reason of an error or misdescription in the catalogue or elsewhere as to the quantity, measurement, specifications, or quality of a lot & the purchaser remains bound to take delivery without any allowance or reduction in the purchase price.
- 8.3 The auctioneer & seller make no warranties either express or implied, other than those implied in common law or statute, the exclusion of which would render this condition void or voidable or which would constitute an offence by the auctioneer or the seller.
- 8.4 No warranty, either express or implied, is given by any affirmation made by the auctioneer.
- 8.5 The auctioneer or the seller is not liable to pay compensation to a purchaser for any fault or defect in a lot, or for any error or misdescription or for any missing part or quantity.
- 8.6 Bidders must satisfy themselves by inspection or otherwise as to the nature & authenticity of a lot & accept the same with all faults, latent or patent.

9 LOTS AT PURCHASER'S RISK

From the fall of the hammer each lot is at the purchaser's risk. The auctioneer & the seller shall not be accountable for any deficiency, damage or loss which may occur thereafter.

10 REMOVAL OF LOTS

- 10.1 At the purchaser's own cost the purchaser shall remove within the time frame specified by the auctioneer or in other promotional material or by no later than 4pm on the next business day following the auction whichever is the earlier.
- 10.2 The purchaser shall not relocate or remove a lot during the auction.
- 10.3 The purchaser is fully responsible for the expense & risk of removal of a lot & for any damage to property or injury to persons caused by themselves, their agents or employees which occurs during the removal of a lot – bought or otherwise.
- 10.4 Any part of a lot which a purchaser does not remove within the time frame specified in 10.1 may be thereafter removed by some person, firm or company engaged by the auctioneer & stored at the auction site or elsewhere at the auctioneer's discretion. Such removal & storage shall be deemed to be made at the request of the purchaser & all costs incurred by the auctioneer shall be recoverable by the auctioneer & the seller as a debt due & payable by the purchaser.
- 10.5 The disconnection of any water, gas or electrical services from any piece of plant & equipment carried out during the removal of a lot must be performed by a competent & qualified tradesperson.

11 PAYMENT FOR LOTS

- 11.1 Prior to the end of the auction or at any time thereafter specified by the auctioneer, the purchaser shall pay to the auctioneer the full purchase price for the lot including any sales tax, GST, any other government tax or any buyer's premium.
- 11.2 The purchase price & any part thereof, shall be paid by cash, EFT, EFTPOS or bank cheque.
- 11.3 Any balance of the purchase price shall be paid by the purchaser to the auctioneer within the period required in these conditions to take delivery of the lot & the purchaser shall not be entitled to require the delivery of the lot until the purchase price has been paid in full.
- 11.4 The auctioneer & the seller reserve the right to restrict access to the lot prior to the lot being paid for in full.
- 11.5 Title to the lot shall not pass to the purchaser until all payments are cleared by the auctioneer's bank.

12 PURCHASER'S DEFAULT.

- 12.1 If the purchaser fails to comply with any of the above terms, the deposit & any monies paid shall be forfeited without notice to the purchaser, to the auctioneer & the lot in respect of which the default has been made may be resold by public or private sale, or disposed of if no longer of commercial value.
- 12.2 The defaulting purchaser shall pay all the expenses arising from the default including the cost of any removal, warehousing, advertising, commission & resale of the lot. This amount may be recovered by the auctioneer or the seller as a debt due & payable by the purchaser.
- 12.3 If the price obtained on the resale is lower than the price obtained at the original sale, the difference in price may be recovered by the auctioneer or seller as a debt due & payable by the purchaser.
- 12.4 Without limiting the generality of the foregoing the auctioneer is entitled to recover from the purchaser
- 12.4.1 a sum for expenses & charges incurred by the auctioneer in connection with or incidental to the auction in respect of any resale,
- 12.4.2 the amount of any applicable commission or buyer's premium,
- 12.4.3 any applicable sales tax, GST, or other government tax or fee relating to or arising from the sale of the lot or part thereof.

13 OCCUPATIONAL SAFETY & HEALTH OBLIGATIONS

- 13.1 The legislation imposes obligations, such as providing & maintaining a safe work environment & preventing exposure to & protection from hazards on persons who use or operate plant in a workplace & on employers whose employees use & operate the plant. If the purchaser intends to use plant purchased at this auction, at a workplace then it is the responsibility of the purchaser to inform themselves of these obligations.
- 13.2 Unless otherwise stated, the plant sold at this auction has not been assessed or inspected by a competent person & it may be affected by faults or defects, which make it unsafe for its use therefore, it may only be suitable for scrap or spare parts. It is the responsibility of the purchaser to ensure assessment & inspection by a competent person

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- 13.3 The purchaser is warned that the items not previously assessed or inspected by a competent person may be suitable for scrap or spare parts only.
- 13.4 The legislation requires the owners of plant maintain safety & health information & records. The auctioneer will pass on to the purchaser all information made available to them by the owner, but the auctioneer does not warrant that the information & records are complete & accurate. It is the responsibility of the purchaser to familiarize themselves with all relevant information and records.

14 COMPUTING EQUIPMENT

- 14.1 Unless specifically provided, any sale of computer equipment at this auction is intended to be the sale of the computer hardware only.
- 14.2 If the sale of any computer equipment includes software, the software may be the subject of a software licence agreement. A copy of this agreement may be obtainable from the software manufacturer or after the sale by the seller.
- 14.3 If the software is not capable of being assigned with the computer hardware, the purchaser acknowledges that any use of the software may be a breach of the software licence agreement.
- 14.4 If the software is capable of being assigned with the computer hardware, the purchaser acknowledges that they are bound by the terms & conditions of the software licence agreement & that such conditions may restrict the use of the software.

15 TIME TO BE OF THE ESSENCE

Time shall be of the essence in the sale of any lot & in the performance of the above terms & conditions.

{See also any signs or notices around the auction site}