

CONDITIONS OF SALE BY TENDER

1. Conditions

These conditions, together with any special conditions in the accompanying invitation to tender document ("Notices to Purchasers"), are the only terms and conditions subject to which Edward Symmons (the "Agent") as agents for the Vendor ("Vendor") will invite tenders and sell by tender the goods (the "Goods") as set out in the tender document to a successful buyer (the "Buyer"). Tendering for any of the Goods shall be deemed to be an acceptance of these conditions. If there is inconsistency between any of these conditions and any conditions in the Notices to Purchasers, then those in the Notices to Purchasers shall prevail.

2. Inspection and Description

- 2.1 Bidders have a responsibility to make their own inspection and investigation of the lots at the times and at the premises specified in the tender document, and to satisfy themselves on all matters affecting the lots, and to inspect and satisfy themselves prior to the sale, as to the condition and description of a lot, its fitness and suitability for purpose.
- 2.2 Goods are believed to be correctly described but all goods are sold with all faults, imperfections and errors of description.
- 2.3 Neither the Vendor nor the Agent, their servants or agents makes or gives, nor has any person in the employment of the Agent any authority to make or give any representation or warranty in relation to Goods.

3. Limitation of Liability

- 3.1 Neither the Vendor nor the Agent, their servants or agents shall be liable for any loss or damage suffered by the Buyer arising out of or in connection with any defects or deficiencies in any lots purchased, errors of description in the tender document, any mis-statements as to any matter affecting the lots or the failure of the lots to fulfil the functions for which they were intended.
- 3.2 The Agent's and the Vendor's total liability for breach of contract or negligence is limited to the price paid for the Goods.
- 3.3 Neither the Agent nor the Vendor shall be liable for any indirect or consequential loss or damage (whether for loss of profit, loss of business or otherwise) incurred by the Buyer whatsoever.
- 3.4 Nothing in these conditions excludes or limits the liability of the Agent or the Vendor for death or personal injury caused by their negligence or fraudulent misrepresentation.
- 3.5 Nothing in these conditions shall prejudice the statutory rights of a consumer who shall be bound by these conditions only insofar as they are consistent with such statutory rights.

4. Conduct of Sale

The Agent reserves the rights in its absolute discretion to refuse admission to the premises and grounds to any person. The conduct of the sale shall be at the Agent's sole discretion. If any dispute of whatsoever nature relating to a tender shall arise, such dispute shall be determined by the Agent in its absolute discretion and whose decision shall be final and binding on all parties.

5. Completion of Tender Form

The Form of Tender attached to the invitation to tender document should be completed in the manner indicated and forwarded to the Agent to arrive at their offices before the time and date advertised in the Notices to Purchasers for the opening of tenders. The Vendor reserves the right to consider or reject tenders received after that time or which in its absolute discretion it considers unclear or incomplete. No tender shall be withdrawn after it has been received.

6. Acceptance of Tenders

Tenders will be opened on the date specified in the Notices to Purchasers and successful Buyers will be informed of the acceptance of tenders as soon as is reasonably practicable. The Vendor does not undertake to accept the highest or any tender and reserves the right to withdraw all or any Goods from the advertised sale at any time before a purchase is declared and to deal with such Goods in any manner as it may in its sole discretion decide. If amongst the highest tenders there are two or more equal amounts, the Agent shall declare

the Buyer at their discretion. The declaration by the Agent of the Buyer marks acceptance of the Buyer's tender and the conclusion of the contract for sale between the Vendor and the Buyer.

7. Insurance

As from the date and time the Buyer is declared, all risks in and relating to the Goods purchased, shall pass to the Buyer and the Buyer is strongly advised to effect insurance for these risks at once. In no circumstances will the Agent or the Vendor be responsible if any Goods or part thereof be lost, stolen, damaged or destroyed after the Buyer is declared.

8. Title

The Vendor shall only sell such title to the Goods as he may have. Neither the Agent nor the Vendor warrants the Vendor's good title to any of the Goods and if it is found that the Vendor does not have title or unencumbered title to any of the Goods purported to be sold under these conditions the Buyer expressly agrees that it shall have no right either to rescind the contract or to claim damages or a reduction in the consideration paid or payable under the contract.

Title to each of the Goods will not pass until:-

- (a) all debts owed by the Buyer to the Agent (whether part-paid secured or otherwise) are settled, for the avoidance of doubt the debts shall not be settled until (where payment or part payment is made by cheque) all cheque(s) in question have been cleared; and
- (b) such Goods have been removed from the premises at which the sale is held or where the Goods are being stored in their entirety.

9. Removal

No Goods or part thereof can be removed until payment in cash or approved bankers draft has been made in full or (where any part of the payment was made by cheque) the cheque has cleared in the Agent's account. The Buyer should make its own arrangements for removing Goods purchased and loading onto vehicles and no Goods shall be removed without the authority of the Agent and unless under the supervision of the Agent's servants or agents. Removal shall take place during the times, and must be completed by the time and date, as specified in the Notices to Purchasers (and in every case time shall be of the essence).

The Buyer has no right to anything not described in the accompanying invitation to tender document.

Delivery of Goods sold will be made only to the declared Buyer and no transfer of any part of any Goods to any other person will be recognised.

Prior to the removal of any Goods the Vendor may rescind the contract for the sale of those Goods and refund to the Buyer any money paid by the Buyer for the Goods should any third party claim title to or possession of any part of the Goods.

The Buyer will be responsible for the removal of Goods and must provide his own labour, packing and equipment.

The Agent requires that in pursuit of safe working practice all equipment used for lifting and transporting heavy items which have been purchased by the Buyer should be covered by appropriate insurance and registration documents (in particular but not limited to cranes, lifting tackle and fork lift trucks). Such documentation shall be produced to the Agent on request and if the Buyer fails to produce such documentation on request the Agent reserves the right to refuse to release the Goods and/or rescind the sale. Appropriate personal protective equipment, must be worn during these activities, and due regard paid to safe material handling practices.

10. Damage to Premises

The Buyer shall be responsible for the removal of all Goods at his own expense and risk and such removal must be carried out safely and lawfully and in accordance with the conditions of safety set out in the tender document or of which the Buyer is notified. For the avoidance of doubt removal includes where applicable disconnection from the main electricity supply and the detachment of any Goods which are fixed. All electrical installations must be left in a safe condition during and after the removal and the use of explosives or flame cutting equipment or any other potentially hazardous or inflammatory process shall not be permissible on the site without the express written consent of the Agent. The Buyer shall be responsible to insure against and to make good any injury or damage to persons or property caused by the Buyer, its carriers, servants or agents detaching, disconnecting or removing any Goods purchased by the Buyer. The Buyer shall produce his insurance documentation to the Agent on request and if the Buyer fails to produce such documentation on request the Agent reserves the right to refuse to release the Goods and/or rescind the sale. The Buyer shall indemnify the Agent for any damage or

loss which the Agent may suffer in respect of loss, damage or injury suffered by the Buyer's agents or employees or any third party arising from the removal. At their discretion the Agent may require payment of a deposit to the Agent prior to and/or during the removal which will be refunded on the removal being completed to the Agent's satisfaction. If the Buyer refuses to deposit such monies, the Vendor or the Agent may refuse the Buyer access to the premises for the purposes of the removing the Goods purchased by the Buyer and/or rescind the sale. The Agent reserves the right to stop the removal of a lot by a Buyer, his agents or employees, if it appears to the Agent or its agents or employees, that the removal is being carried on in an unsafe or unsatisfactory way and/or rescind the sale.

11. Default by Buyer

Upon failure by the Buyer for whatsoever reason:-

- (i) to pay a deposit in full if required under the Conditions of Sale; or
- (ii) to pay the purchase price in full on the due date; or
- (iii) to provide any documentation required under these conditions; or
- (iv) to remove the goods in a safe or satisfactory way; or
- (v) to remove any lot from the premises on or before the date specified for removal,

the Vendor will be entitled to rescind the contract forthwith without incurring any liabilities to the Buyer and, without prejudice to any claims of the Vendor and/or the Agent against the Buyer arising from breach of contract or otherwise, upon rescission as aforesaid the following provisions apply:

- (a) all monies deposited in part payment will be forfeited and used to pay the Vendor's and/or Agent's expenses referred to in paragraph (d) below;
- (b) if the lots have been removed in breach of these conditions, the Vendor and/or the Agents, their servants or agents may enter the premises of the Buyer to recover such lots;
- (c) lots may be re-sold or otherwise disposed of by the Agent in the manner they feel appropriate at their sole discretion and any deficiency arising upon the resale together with the expenses of it shall be due as a debt from the Buyer in default upon the first sale. The Buyer consents to such a resale on the Agent's conditions of business applicable at the time of resale. Neither the Agents nor the Vendor shall be liable to account to the Buyer in the event of a re-sale at a higher price than the price contracted to be paid by the Buyer;
- (d) the Buyer will be responsible from the specified time for final removal for all losses and expense incurred by the Vendor and/or the Agent including storage, security and removal expenses, the costs of re-selling or disposing of the Goods and sales commission.

12. Agent

The Agent acts only as agent for and on behalf of the Vendor and shall not be held responsible for any action or default on the part of either the Vendor or the Buyer. Any concluded contract of sale is made directly between the Vendor and Buyer.

13. Accident or Damage

Neither the Agent nor the Vendor will accept any responsibility for any accident, (except for that arising out of its negligence or the negligence of its agents or employees resulting in death or personal injury) howsoever caused to any person which may occur whilst on the Agent's premises, Vendor's premises or other premises used for the sale or for storage of the goods before during or after the sale and any person entering the premises does so at his own risk and is deemed to have notice of the condition of the premises and their contents.

14. The Consumer Protection Act 1987

No lots are sold as new.

15. Health And Safety At Work

It is expressly brought to the Buyer's attention that, at the time of sale, any item of plant, machinery or equipment contained in the Goods may not necessarily comply with the Health and Safety at Work Etc. Act 1974 the Environmental Protection Act 1990, Constructions Design & Management Regulations 1994 or any other Act of Parliament regulations thereunder governing the use of that plant, machinery or equipment in a working environment. Buyers of any such plant, machinery or equipment are hereby required to ensure so far as reasonably practicable that such item will be safe and without risk to health and that the use of any such items at a place of work within the EEC and the United Kingdom does not contravene any such Act of Parliament regulation applicable to such use.

16. Dangerous Substances

It is expressly brought to the attention of Buyers (and potential buyers) that certain types of plant or main service installations could contain blue and white asbestos, dangerous chemicals, hazardous waste which if not handled correctly during their removal from the site could be in breach of the Health and Safety at Work Etc. Act 1974 Sections 2-9, Control of Substances Hazardous to Health Regulation 1988 (COSHH) or other current legislation regulating the use of such substances in a working environment. The Buyer shall ensure so far as is reasonably practicable that they comply with the Health and Safety at Work Etc. Act 1974, COSHH, and other current legislation in connection with the removal, handling or transport of such dangerous substances and/or hazardous substances or shall employ a specialist contractor to remove them. The Buyer shall, on request, satisfy the Agent of his removal procedure, and the removal of waste must be undertaken by an approved and licensed contractor. The Buyer will indemnify the Vendor, their servants and agents against any losses, damages or expenses suffered by them as a result of the Buyer's or a sub-contractor's failure to comply with this legislation.

17. Notices

Any notices or other communications shall be in writing and, if sent by post, shall be deemed to have been received by the addressee on the second working day after posting or, if the addressee is outside the United Kingdom on the fifth working day after posting. If any written notice is delivered by hand it shall be treated as having been received at that time. Any notice sent to the Agent shall be sent to the Agent's address as set out in the tender document. Any notice which the Agent sends to the Buyer may be sent to the Buyer's last address known to the Agent.

18. Third Party Rights

Save as expressly provided in these conditions, no term of these conditions shall be enforceable under the Contracts (Rights of Third Parties) Act 1999 by a third party.

19. Governing Law

These Conditions and any Conditions contained in the Notices to Purchasers, along with all associated transactions and all connected matters shall be governed and construed in accordance with English Law

20. Severability

In the event that any provisions of these conditions shall be held unenforceable for any reason, the remaining conditions shall remain in full force and effect.