



## CONDITIONS OF SALE

### **1: Conditions**

These conditions, together with any special conditions or 'General Notes', are the only terms and conditions subject to which Peter Davies & Sons Limited ("PDS") acting as agents for the Vendor(s) will contract with buyers. Bidding for any lot shall be deemed to be an acceptance of these conditions and any special conditions and conditions in the 'General Notes'. In the event of an inconsistency arising between these conditions and point in any special conditions and the 'General Notes', then PDS reserves the right to elect which condition(s)/term(s) shall be applied.

### **2: Inspection and Description**

- 2.1 Buyers are strongly recommended (and have a responsibility) to attend the view day(s) and to make their own inspection on all matters relating to all lots; they must satisfy themselves, prior to the sale, as to the condition, quantities and description of a lot together with 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 PDS or the Vendor(s), nor their servants or agents, makes or gives, nor has any person in the employment of them, any authority to make or give, any representation or warranty in relation to any lots.

### **3: Limitation of Liability**

- 3.1 Neither PDS or the Vendor(s), their servants or agents shall be liable for any loss or damage suffered by a buyer arising out of or in connection with any defects or deficiencies in any lots purchased, errors of description in the auction catalogue, any misstatements as to any matter affecting the lots or the failure of the lots to fulfil the functions for which they were intended.
- 3.2 PDS's and the Vendor's(s') total liability for breach of contract or negligence in any matter/claim is strictly limited to the bid price and the related buyer's premium and VAT.
- 3.3 Neither PDS nor the Vendor(s) shall be liable for any indirect or consequential loss or damage (whether for loss of profit, loss of business or otherwise) incurred by a buyer whatsoever.
- 3.4 Nothing in these conditions excludes or limits the liability of PDS or the Vendor(s) 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**

- 4.1 PDS reserves the right in its absolute discretion to refuse admission to premises and grounds to any person without having to provide a reason.
- 4.2 The conduct of the sale shall be at PDS's sole discretion and PDS reserves the right to refuse any bids without giving any reason. If any dispute of whatsoever nature relating to a bid or bids arises, such dispute(s) shall be determined by PDS in its absolute discretion and whose decision shall be final and binding on all parties concerned.

- 4.3 Each bidder must register prior to bidding online. PDS reserves the right to reject any registration at its sole discretion.
- 4.4 PDS and the Vendor(s) reserve the right to place a reserve on any lot.
- 4.5 No bid may be withdrawn after the close of bidding.
- 4.6 PDS and the Vendor(s) have absolute discretion to withdraw, consolidate or divide any lot at any point before or during the sale (prior to closing).
- 4.7 The highest bidder for each lot at the close of bidding shall be the "Buyer" (subject to any reserve) and subject to approval by PDS and the Vendor(s).
- 4.8 The sale price is exclusive of the buyer's premium and VAT.
- 4.9 The highest bid at the close of bidding subject to condition 4.7 also marks a conclusion of a contract of sale between the Vendor(s) and the Buyer (the "Contract").
- 4.10 In making a bid for any lots, the Buyer does so as principal. The Buyer will be held personally and solely liable for a bid unless PDS has previously agreed in writing with the Buyer that that bidder will do so on behalf of an identified third party acceptable to PDS. In circumstances where PDS has so agreed, the Buyer and the third party will jointly and severally be liable for all obligations arising from the bid where a third party shall be bound by these conditions by the individual bidding as their agent in the same way as if they were bidding personally.

## **5: Risk and Title**

- 5.1 As from the date and time the Buyer is declared, all risks in and relating to the goods purchased (the "Goods") shall pass to the Buyer and the Buyer is advised to effect immediate insurance cover on the subject lots.
- 5.2 The Buyer has no right to anything not described in the auction catalogue.
- 5.3 In no circumstances will PDS or the Vendor(s) be responsible if any Goods or part thereof be lost, stolen, damaged or destroyed after the Buyer is declared.
- 5.4 The Vendor(s) shall only sell such title to the Goods as they may have. Neither PDS nor the Vendor(s) warrants the Vendor's(s') good title to any of the Goods and if it is found that the Vendor(s) 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.
- 5.5 Should any third party claim title to any part or all of any lot sold, then the Vendor(s) reserves the right to rescind the Contract (prior to removal) for the sale of that lot and refund to the Buyer any monies paid by the Buyer, together with associated buyer's premium and VAT, for the lot concerned.
- 5.6 Title to each of the Goods will not pass until:-
  - (i) all debts owed by the Buyer to PDS and the Vendor(s) (whether part paid, secured or otherwise) are satisfied (debts are not satisfied until cleared funds are received by PDS or the Vendor(s), as the case may be); and
  - (ii) such Goods have been removed from the premises at which the sale is held or where the Goods are being stored in their entirety.

## 6: Collection of Goods

- 6.1 No lot or part thereof can be removed until payment in full has been made in accordance with the 'General Notes'.
- 6.2 Delivery of any lots will be made only to the registered Buyer; no transfer of any lot or part of a lot to any other person will be recognised.
- 6.3 No lot shall be removed without the authority of PDS and unless under the supervision of PDS's servants or agents.
- 6.4 Removal must be completed by 5.00pm each day(s) or as indicated in the 'General Notes'.
- 6.5 The Buyer will be responsible for removal of lots at their own expense and must provide appropriate labour and equipment.
- 6.6 PDS requires that in pursuit of safe working practice all contractors, together with all equipment used for lifting and transportation, should be covered by appropriate insurance (in particular but not limited to:- lifting equipment and fork lift trucks). Such documentation shall be produced to PDS by the Buyer on request for inspection and if the Buyer fails to produce such documentation PDS reserves the right to refuse to clear the lot and/or rescind the sale in which event the provisions of condition 7 will apply.
- 6.7 Appropriate personal protective clothing and footwear must be worn and due regard paid to safe material handling practices.

## 7: Default by Buyer

- 7.1 Upon the failure by the Buyer for any of the reasons stated hereunder:-
  - (i) to pay a deposit in full if required under these conditions, any special conditions or the 'General Notes';
  - (ii) to pay the purchase price in full on the due date;
  - (iii) to provide any documentation required under these conditions;
  - (iv) to remove the Goods in a safe or satisfactory way; or
  - (v) to remove any lot on or before the date specified for removal,

the Vendor(s) will be entitled to rescind the Contract forthwith without incurring any liabilities to the Buyer and (without prejudice to any claims of the Vendor(s) and/or PDS 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;
- (b) if the lots have been removed in breach of these conditions, the Vendor(s) and/or PDS, 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 PDS in the manner it considers appropriate and at its sole discretion. 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;
- (d) the Buyer consents to such a resale on PDS's conditions of business applicable at the time of resale;
- (e) neither PDS nor the Vendor(s) 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. The Buyer waives any claim in such a case that they may have title to the lot and agrees that any re-sale price shall be deemed commercially reasonable; and

(f) the Buyer will be responsible from the specified time for final removal for all losses and expense incurred by the Vendor(s) and/or PDS including storage, security and removal expenses, the costs of re-selling or disposing of lots and PDS's commission.

## **8: Damage to Premises**

- 8.1 The Buyer shall be responsible for the removal of all Goods purchased at their own expense and risk and such removal must be carried out safely and lawfully and in accordance with any conditions of sale of which the Buyer is notified. For the avoidance of doubt removal includes (where applicable) disconnection from the mains electricity supply and the detachment of any lots which are fixed.
- 8.2 All electrical installations must be left in a safe condition during and after the removal.
- 8.3 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 PDS.
- 8.4 The Buyer shall be responsible to insure against and to make good any injury or damage to persons or property caused by the Buyer, their carriers, servants or agents removing any Goods purchased by the Buyer.
- 8.5 The Buyer shall produce their insurance documentation to PDS on request and if the Buyer fails to produce such documentation the Vendor(s) or PDS reserve the right to refuse to clear the lot and/or rescind the sale/Contract.
- 8.6 The Buyer shall indemnify PDS for any damage or loss which PDS 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.
- 8.7 At its discretion PDS may require the payment of a deposit to PDS prior to and/or during the removal of lots which will be refunded on the removal being completed to PDS's satisfaction. If the Buyer refuses to deposit such monies, the Vendor(s) or PDS may refuse the Buyer access to the premises for the purposes of removing the lot purchased by them and/or rescind the sale/Contract in which event the provisions of condition 7 will apply.
- 8.8 PDS reserves the right to stop the removal of a lot or lots by a Buyer, their agents or employees, should it appear to PDS or its agents or employees that the removal is being carried out in an unsafe or unsatisfactory way.

## **9: Accident or Damage**

- 9.1 Neither PDS nor the Vendor(s) 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 PDS's premises, the Vendor's(s') premises or such other premises used to hold the auction or to store the lots before, during or after the sale.
- 9.2 Any person entering such premises does so at their own risk and is deemed to have notice of the condition of the premises and their contents.

## **10: The Consumer Protection Act 1987**

No lots are sold as new. No warranties or guarantees are given in respect of any/all lots offered/sold.

## **11: Health & Safety**

- 11.1 It is expressly brought to the Buyer's attention and that of potential buyers 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 Act 1974; the Environmental Protection Act 1990; the Construction Design and Management

Regulations 1994 or any other Act of Parliament or regulations governing the use of that plant, machinery or equipment in a working environment.

- 11.2 Buyers of any lot are required to ensure (so far as reasonably practicable) that such item(s) 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 or regulation applicable to such use.

## **12: Dangerous Substances**

- 12.1 It is expressly brought to the attention of the Buyer (and potential buyers) that certain types of plant or main service installations could contain blue and white asbestos, dangerous chemicals and hazardous waste which, if not handled correctly, during their removal from the premises could be in breach of the Health and Safety at Work Etc. Act 1974, Sections 2-9 of the Control of Substances Hazardous to Health Regulations 1988 ("COSHH") or other current legislation regulating the use of such substances in a working environment.
- 12.2 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 and transport of all dangerous substances and/or hazardous waste or shall employ a specialist contractor to remove them.
- 12.3 The Buyer shall, on request, satisfy PDS in relation to their removal procedures and, in this regard, the removal of waste materials must be undertaken by an approved and licensed contractor. The Buyer will indemnify PDS and the Vendor(s), their servants or agents against any loss, damages or expenses suffered by them as a result of the Buyer's or a sub-contractor's failure to comply with this legislation.

## **13: Third Party Rights**

PDS and the Vendor(s) shall have the benefit and the right to enforce the terms of these conditions and the Contract. With the exception of this, no other party which is not a party to these Conditions and the Contract shall have the right to enforce the terms of them, whether by virtue of the Contracts (Rights of Third Parties) Act 1999 or otherwise.

## **14: PDS as Agent**

PDS acts only as an agent for and on behalf of the Vendor(s) and shall not be held responsible for any action or default on the part of either the Vendor(s), bidders or the Buyer. Any concluded contract of sale/the Contract is made directly between the Vendor(s) and the Buyer, but will be enforceable by PDS pursuant to condition 13.

## **15: 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.

## **16: Governing Law**

These Conditions and any special conditions and any conditions contained in the 'General Notes', along with all associated transactions and all connected matters, shall be governed and construed in accordance with English Law.

## **17: The Buyer's Right to Cancel the Contract**

Depending on how the Buyer has agreed to buy the Goods, they may have a legal right to change their mind/cancel the Contract within 14 days and receive a refund of any sum paid in respect of the Goods. These rights are under the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013. How long the Buyer has depends on what they have ordered and how it is delivered. If the Buyer has brought goods, they have 14 days after the day they (or someone they nominate) receives the goods. This is unless the goods are split into several deliveries over different days, in which case they have until 14 days after the day they (or someone they nominate)

receives the last delivery. To exercise these rights, the Buyer can contact PDS by any means, including sending the model cancellation form in the Schedule below.

## The SCHEDULE

### Model Cancellation Form

(Complete and return this form only if you wish to withdraw from the Contract)

To Peter Davies & Sons Limited, Maple House, High Street, Potters Bar, Herts. EN6 5BS or The Auction Complex, 1/16 Houldsworth Mill, Houldsworth Street, Stockport. SK5 6DA, 0345 257 2533, [contact@pdsvaluers.com](mailto:contact@pdsvaluers.com)

I/We [\*] hereby give notice that I/We [\*] cancel my/our [\*] contract of sale of the following goods [\*]/for the supply of the following service [\*],

Ordered on [\*/received on [\*],

Name of consumer(s),

Address of consumer(s),

Signature of consumer(s) (only if this form is notified on paper),

Date

[\*] Delete as appropriate