

**CONDITIONS OF SALE
FOR ALL SALES OF NEW OR USED
MACHINERY, MOTOR VEHICLES,
CHATTELS
OR OTHER SUNDRY ITEMS AND/OR
EQUIPMENT**

**INCLUDING ONLINE AUCTIONS ADDENDUM TO CONDITIONS OF
SALE**



**Recommended for use by Member firms of
The Livestock Auctioneers' Association Ltd**

(Revised January 2022)

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CONDITIONS OF SALE

SCHEDULE 1

GLOSSARY AND PROVISIONS

1 Definitions

1.1 These Definitions apply to the Conditions as a whole:

“Auctioneer” - the person conducting the Sale and the person by whom that person is employed or on whose behalf that person is conducting the Sale;

“Auctioneer’s Margin Scheme” – VAT scheme allowing auctioneers to account for VAT on a margin equal to the services provided to the seller and the buyer

“Bidder” - the purchaser or person duly authorised to bid for any Lot(s) as agent for and on behalf of the Purchaser;

“Breach of Warranty” – the instance where there is a failure to fulfill a promise, term, claim or representation made regarding the Lot offered for sale.

“Buyer’s Premium” – the surcharge made by the Auctioneer, and payable by the Purchaser, on all purchases of chattels in the Sale in addition to the Sale Price (to which is to be added VAT at the rate current at the date of the Sale);

“Commission” – the charges of the Auctioneer payable on the sale of Lots in accordance with Condition 10;

“Conditions” – the standard business terms and conditions of sale set out in these Conditions of Sale together with any special conditions notified by the Auctioneer for a particular Sale either on his website, in the catalogue for the Sale, on the Entry Form or announced before the commencement of the sale of any Lot;

“Contract for Sale”- where the sale is by Public Auction, at the fall of the hammer; where the sale is via Online Auction, by Private Treaty or by Tender, the point at which payment of the agreed purchase price is made; or when the Lot to which the contract relates is removed from the Sale Premises, whichever is the sooner.

“Enactment” - any statute or statutory provision (whether of the United Kingdom or elsewhere), subordinate legislation (as defined by section 21(1) of the Interpretation Act 1978) and any other subordinate legislation made under any such statute or statutory provision;

“End of the Day’s Sale” - the time when the Auctioneer declares bidding has closed on the last Lot in the Sale being conducted that day, whether by Public Auction, by Online Media or by Private Treaty or Tender; or upon the last Lot in that section of the Sale (as the case may be);

“Entry Form” – the form supplied by the Auctioneer to be completed and signed by the Vendor including details of the Lots to be offered for sale at the Sale;

“General Margin Scheme” – a VAT scheme allowing those registered for VAT to calculate tax on the margin made on the goods rather than on the full selling price;

“Liquidated Damages” – the ascertained and agreed damages to cover all expenses, depreciation in value and other damages whatsoever;

“Lot” – all new or used machinery, motor vehicles, chattels or other sundry items and/or equipment which is included in a sale organized by the Auctioneer and offered for sale (whether sold as a single item or as a group of items and numbered accordingly in the catalogue for the Sale) under these Conditions;

“Online Bids” – bids at a Public Auction, received via the internet.

“Online Auction” – A Sale conducted online only. Bidding may be live, via the internet, where the Auctioneer calls the ascending bids and closes the sale when bidding is exhausted or via a Timed Auction.

“Private Treaty” – a Sale conducted by an Auctioneer between 2 willing parties, whereby a price satisfactory to both parties is agreed through private negotiations.

“Public Auction” – a Sale conducted by the Auctioneer and open to the public to attend.

“Purchaser” - in relation to any Lot, the person whose bid for that Lot has been accepted by the Auctioneer or, if Condition 7 applies, a purchaser from that person and in either case including the personal representative(s) of such person;

“Reserve Price” – the minimum price notified by the Vendor to the Auctioneer or determined by the Auctioneer prior to the Sale and below which no offer to purchase will be accepted;

“Sale” – a sale by Public Auction, by Online Auction or by Private Treaty or Tender, containing one or more Lots of new or used machinery, motor vehicles, chattels or other sundry items and/or equipment organized by the Auctioneer;

“Sale Premises” – the entirety of the building(s) and/or land (as the case may be) used by the Auctioneer to conduct the Sale;

“Sale Price” – the price at which the Lot is declared sold to the highest Bidder as confirmed by the Auctioneer (excluding any VAT, Commission, Buyer’s Premium or other charges);

“Take Delivery” – means accept a transfer of possession;

“Telephone Bids” – bids at a Public Auction received by telephone.

“Tender” – a Sale conducted by the Auctioneer where purchasers submit written bids to the Auctioneer by a specified date and time.

“Timed Auction” – an Online Auction where potential buyers are invited to submit bids within a specified time period.

“VAT” – the value added tax calculated at the rate payable on the date of the Sale

“Vendor” – the owner and any other person (being a partnership), firm or company other than the Auctioneer who offers a Lot for sale, including the personal representatives of any such person;

“Warranty” – an assurance or promise made by either the buyer or seller under Schedule 2 of these Conditions

“Warranty of Title” - the terms implied by section 12 of the Sale of Goods Act 1979 as to the Vendor’s right to sell, quiet possession and freedom from encumbrances;

“Working Day” – means Monday to Saturday inclusive in any week subject to the provisions of Condition 2.1 of these Conditions.

1.2 Interpretation

In these Conditions:

- 1.2.1 words signifying the masculine include the feminine and vice versa.
- 1.2.2 words signifying the singular include the plural and vice versa.
- 1.2.3 references to a person include a corporation.
- 1.2.4 references to any Enactment include a reference to:
 - 1.2.4.1 any Enactment which that Enactment has directly or indirectly replaced (whether with or without modification); and,
 - 1.2.4.2 that Enactment as re-enacted, replaced or modified from time to time, whether before, on or after the date of these Conditions.
- 1.2.5 references to a Condition, Schedule or Appendix are to a Condition or part of a Condition, Schedule or the Appendix to these Conditions.
- 1.2.6 the contents table and the descriptive headings to Conditions, Schedules and the Appendix are for convenience only and shall be ignored when interpreting these Conditions; and,
- 1.2.7 the words and phrases “other”, “include”, “including” and “in particular” shall not limit the generality of any preceding words or be construed as being limited to the same class as the preceding words where a wider construction is possible.

The Conditions which follow apply to all sales of new or used machinery, motor vehicles, chattels and other sundry items and/or equipment (but for the avoidance of any doubt EXCLUDING LIVESTOCK):

2 Time limits

- 2.1 Time shall be of the essence of all Conditions which contain time limits. Where the time limited for a person to do anything expires on a Sunday, bank or other public holiday, or on the day next following any such day, then such Sunday or bank or other public holiday shall be excluded from the computation of the time.
- 2.2 In the computation of any period of time before or after the Sale or any other event, the day of the Sale or other event, as the case may be, shall be excluded.
- 2.3 Any period of time expressed as a number of days shall be taken to refer to that number of clear days, and similarly for any other period of time.
- 2.4 If a time frame for reporting a breach of warranty or taking some other action is not specified within the relevant condition then the reporting of the breach or the other action should be taken before the End of the Day’s Sale.
- 2.5 In the event that a Lot is bought for export to Northern Ireland or a country outside the United Kingdom any time frame specified within these Conditions for reporting a breach of warranty or taking some other action will terminate once the Lot leaves United Kingdom soil.

3 Statements of fact

Unless otherwise announced all statements of fact made in any sale catalogue or at the time of the Sale regarding the age, condition or provenance of any new or used machinery, motor vehicles, chattels or other sundry items and/or equipment are statements of fact made by the Vendor and not the Auctioneer and the Auctioneer accepts no responsibility for any mis-statements nor for any problems experienced by the Purchaser nor claims by him against the Vendor arising as a result of any such mis-statements.

4 Service of Notices

- 4.1 Notwithstanding anything to the contrary in these Conditions, and save as provided by Condition 4.2, any written notice under any of these Conditions may be served on the person to whom it is to be given either personally, or by leaving it for him at his last known address, or by sending it through the post in a prepaid recorded delivery letter addressed to him there, and any such letter shall be deemed to have been received by him at the time at which it would be delivered in the ordinary course of post.
- 4.2 Any written notice required by any of these Conditions to be given by a Purchaser to a Vendor may be given by such Purchaser to the Auctioneer on the Vendor's behalf, either by leaving it at the office of the Auctioneer, or by sending it through the post in a prepaid recorded delivery letter addressed to the Auctioneer there and any such letter shall be deemed to have been received by the Vendor at the time at which it would be delivered to the Auctioneer in the ordinary course of post.
- 4.3 On receiving any notice under Condition 4.2 the Auctioneer shall, as soon as reasonably practicable, communicate its contents to the Vendor.
- 4.4 Except as above, all communications and negotiations with reference to any dispute between any Purchaser and Vendor under these Conditions shall take place directly between the Purchaser and the Vendor respectively without involving the Auctioneer.

5 Liability of the Auctioneer

- 5.1 The Auctioneer acts in all respects only as agent for the Vendor and no Warranty is given by the Auctioneer or his employees or contractors, and none shall be implied, as to title, description or quality of any Lot. Neither the Auctioneer nor his employees or contractors shall be liable to the Purchaser in respect of any defect of title, error of description or imperfection or for any announcement or statement concerning any Lot offered for sale whether made orally or in writing (whether in a sale catalogue, order of sale, advertisement for the Sale or otherwise) and whether given before, during or after the Sale, nor shall he incur any liability in relation to any dispute between a Vendor and Purchaser.
- 5.2 The Auctioneer shall not be liable:
 - 5.2.1 in any way for any accident which happens to any person while on the Sale Premises, unless it arises out of the Auctioneer's or his employees' or contractors' negligence; nor shall he be liable for any expenses, loss, claim or proceedings in respect of any property real or personal (including all Lots) whether incurred before or after the Sale;
 - 5.2.2 for any persons entering the Sale Premises who do not observe all specific health and safety notices which are displayed; or,

- 5.2.3 in any way in the event of any interruption, suspension, or cancellation or disturbance to the telephone or on-line auction service nor any loss arising if any of these events occurs;
- 5.3 The Auctioneer reserves the right to refuse admission to the Sale Premises to any person or to refuse the admission of any Lot into the Sale, without having to state the reason.

6 Entry of Lots for the Sale

- 6.1 The Vendor shall ensure that all Lots, which must be notified to the Auctioneer on the Entry Form for the Sale, shall be delivered to the Sale Premises in accordance with the terms of entry specified in the Entry Form unless otherwise agreed with or instructed by the Auctioneer prior to or on the day of the Sale.
- 6.2 Entries of Lots for sale will not be accepted on the day of the Sale unless the Auctioneer agrees otherwise.
- 6.3 All Vendors shall properly complete a VAT declaration confirming their status (and VAT registration number where applicable) and deliver it to the Auctioneer prior to the Sale. Vendors, who for the purposes of VAT legislation are registered Vendors operating within the General Margin Scheme, must enter their Lots on the Entry Form and clearly state that they are eligible to sell their Lots under the Auctioneer's Margin Scheme and require them to be so treated.
- 6.4 The Auctioneer reserves the right to charge an entry fee in respect of the entry of any Lot in the Sale.

7 Conduct of Sales

- 7.1 Every Vendor, Bidder and Purchaser shall be deemed to have full knowledge of these Conditions and by taking part in the Sale agrees to be bound by them. These Conditions shall apply to all sales conducted by the Auctioneer on the Sale Premises except where they conflict with any special conditions expressly stated by the Auctioneer in the catalogue or at the time of the Sale as applying to the sale of that Lot, which shall then prevail.
- 7.2 If a Lot entered for a sale is specifically advertised by the Auctioneer and the person entering that Lot fails to take it for sale on the relevant day, the Auctioneer may charge him a fair and reasonable proportion of the expenses incurred.
- 7.3 The Auctioneer does not guarantee that every Lot which is entered for sale in any catalogue or advertisement will be forward at the Sale.
- 7.4 If a person who has brought a Lot on to the Sale Premises for sale sells that Lot by Private Treaty on the day of Sale and on the Sale Premises, either before it is offered for sale at auction or, if it fails to sell at auction, afterwards, these Conditions shall, so far as applicable, govern that private sale.
 - 7.4.1 In the case of a sale by Private Treaty, concluded directly between Vendor and Purchaser:
 - 7.4.1.1 the Vendor and Purchaser shall immediately notify the sale to the Auctioneer and the purchase price shall be payable to the Auctioneer in full as if the sale had taken place through the Auctioneer; and,
 - 7.4.1.2 the Auctioneer may charge the Commission which would have been payable if the Lot had been sold by him for the price obtained on the private sale, and if he exercises that right the Auctioneer may deduct the

Commission from the purchase price before accounting for it to the Vendor.

- 7.5 If the Vendor fails to comply with the provisions of 7.4.1.1 he shall be liable to pay the Commission.
- 7.6 In the event of any dispute arising with regard to the sale of any Lot or if the Purchaser shall refuse to pay or shall only make partial payment of the purchase price, the Auctioneer may at his sole discretion annul and cancel the sale of that Lot.
- 7.7 The Auctioneer reserves the right to rescind any sale they believe not to be bona-fide, or which they believe may have been achieved fraudulently.

8 Reserve prices, order of sale and bidding

- 8.1 The Auctioneer reserves on behalf of himself, his firm, and the Vendor the following rights:
 - 8.1.1 to fix a Reserve Price;
 - 8.1.2 to bid on behalf of the Vendor up to the value of the Reserve Price;
 - 8.1.3 to rearrange, consolidate or withdraw any Lots or to vary the order of the Sale; and,
 - 8.1.4 without giving any reason, to refuse to accept the bids of any person.
- 8.2 A Vendor who wishes to fix a Reserve Price on any Lot owned by him shall notify the Auctioneer in writing, at least one hour before the sale of that Lot, failing which the Auctioneer may sell the Lot to the highest Bidder.
- 8.3 The Auctioneer may refuse to accept bids from a Vendor for a Lot owned by him and a Vendor shall not bid for a Lot owned by him using any agent other than the Auctioneer.
- 8.4 No person may advance on the previous bid less than the sum named from time to time by the Auctioneer.
- 8.5 No bid may be retracted once made.
- 8.6 The person making the highest bid accepted by the Auctioneer shall be the Purchaser.
- 8.7 If a dispute arises as to any bidding, then, at the discretion of the Auctioneer, either:
 - 8.7.1 The relevant Lot shall immediately be offered for sale again; or,
 - 8.7.2 The Auctioneer shall determine the dispute, and his decision shall be final and binding on all parties.
- 8.8 For the avoidance of any doubt, the above Conditions apply whether bidding is at a Public Auction, Online Auction, or by Private Treaty or Tender.
- 8.9 Where a Purchaser wishes to bid by Telephone Bid or Online Bid at a Public Auction, or where the sale is an Online Auction the following additional conditions shall apply:
 - 8.9.1 If the Purchaser is not already known to the Auctioneer he shall provide such personal information as the Auctioneer may require for identification, security and financial purposes (i.e. bank card details) as well as two telephone numbers, such information to be provided in sufficient time for the Auctioneer to carry out adequate checks;

- 8.9.2 The Auctioneer reserves the right to refuse bids from prospective Purchasers who have not physically inspected the Lots for sale;
- 8.9.3 Where a Purchaser has not inspected the Lots for sale, and proceeds to bid, he shall be deemed to have done so in full knowledge and acceptance of the Vendor's description;
- 8.9.4 The bank card details provided will be used by the Auctioneer to pay the purchase price and other charges on or before the End of the Day's Sale.
- 8.9.5 Online Bids are allowed in real time but the Vendor and Purchaser shall each pay any additional charge specified in the Conditions in respect of each Lot sold on-line

9 Buyers Premium

After notifying Bidders by written notice displayed at the place of the Sale and by clear announcement at the start of the day's Sale the Auctioneer may charge a Purchaser a Buyers Premium (plus Value Added Tax) in addition to the Sale Price.

10 Terms of business

- 10.1 The Auctioneer shall ensure that his trading terms are clearly communicated to all Vendors and Purchasers by being displayed at the Sale Premises for Public Auctions or otherwise made available for those bidding by Telephone Bid, Online Bid or bidding at an Online Auctions and that they include:
- 10.1.1 an obligation on the Auctioneer to pay to the Vendor within an agreed time, the net proceeds of sale (i.e. the price paid by the Purchaser less the Commission and any other deductions) for each Lot; and,
- 10.1.2 full details of the rates of Commission charged by the Auctioneer.
- 10.2 If the Auctioneer charges a Buyer's Premium this will be clearly communicated to all prospective Purchasers before the Sale begins.
- 10.3 All sale monies paid to the Auctioneer shall be the property of the Auctioneer and are not held in trust for the Vendor except where a variation to this procedure has been notified to the Vendor in writing prior to the Sale. In such cases monies held by the Auctioneer shall be held in a separate and identifiable Clients' Account until payment is made to the Vendor.
- 10.4 The Auctioneer shall have the right to withhold payment to the Vendor of the proceeds of sale of a Lot if he has reasonable grounds for believing that the sale is not 'bona fide'.
- 10.5 The Auctioneer shall be entitled before making payment of the proceeds of a sale to a Vendor to deduct from those monies any debt unsettled and due from the Vendor to the Auctioneer.
- 10.6 Following the sale of any tractors and other self propelled vehicles and machinery the Auctioneer shall not pay to the Vendor the proceeds of sale for any such Lot until the Vendor has delivered to the Auctioneer the registration book or certificate of non registration of that Lot.
- 10.7 The Auctioneer shall not account for VAT to a VAT registered Vendor until a properly completed VAT declaration confirming the status and VAT registration number of the Vendor has been delivered to the Auctioneer.

11 Value Added Tax (VAT)

- 11.1 VAT at the statutorily prescribed rate will be charged in addition to the Sale Price on all Lots, save that the Auctioneer may elect to operate the statutory Auctioneer's Margin Scheme in respect of Lots offered on behalf of non VAT registered Vendors.
- 11.2 Purchasers from the United Kingdom shall supply the Auctioneer with their VAT/FISCAL number at the time of purchase to enable the Auctioneer to invoice purchased Lots correctly. In the event of non compliance with this Condition the Auctioneer will charge VAT at the prescribed UK standard rate applicable at the date of the Sale in addition to the Sale Price of all relevant Lots.
- 11.3 All Purchasers from outside the United Kingdom agree to comply with requirements stated by the U.K. Government in relation to VAT. The Purchaser is responsible for ensuring that they are up to date and aware of the statutory requirements.

12 Liability of Vendors and Purchasers for documentation

- 12.1 Where under any Enactment a Lot must be accompanied by any documentation:
 - 12.1.1 The Vendor shall be responsible for delivering to the Auctioneer all relevant documents and shall indemnify the Auctioneer against any claim by the Purchaser resulting from false or incorrectly completed documents and in the event of the Vendor's non delivery to the Auctioneer of any such documentation the Auctioneer shall refuse to accept such Lot for sale; and,
 - 12.1.2 The Purchaser shall be responsible for obtaining from the Auctioneer or from the Vendor, as the case may be, all documentation to which he is entitled and shall indemnify the Auctioneer against any claim from any person resulting from the Purchaser's failure to do so.
- 12.2 If the Purchaser believes that any documentation is false or incorrectly completed he shall notify the Auctioneer by telephone or email (confirmed by notice in writing posted first class to the Auctioneer and supported by an officially authorised certificate) before the end of normal business hours on the second day after the day of the Sale.
- 12.3 Where any Enactment requires the Auctioneer to give information to any statutory or other authority or any other organization the Auctioneer may use any documentation or other information in his possession to supply any information that is so required.
- 12.4 If the Purchaser goes on to export the Lot to Northern Ireland or a country outside of the UK the Purchaser is responsible for ensuring that the documentation, formalities and requirements necessary under any Enactment which governs the export are met.

13 Disclosure of owner's name: sale for disclosed principal

- 13.1 Each Lot shall be entered for sale in its owner's name and if required the owner's name as given to the Auctioneer shall be declared by him, when the Lot is offered for sale.
- 13.2 Whether or not a Purchaser requires disclosure of the owner's name the Auctioneer shall for all purposes be deemed to sell as agent for a disclosed principal.

14 Warranties by the Vendor

- 14.1 All Lots are accepted for sale by the Auctioneer on condition that the Vendor warrants his right to sell the same. The Vendor shall indemnify the Auctioneer and the Purchaser against all actions, costs, proceedings, claims, demands, charges and expenses which they may sustain or incur by reason of any defect in the Vendor's title or arising from the false or incorrect completion of any documents.
- 14.2 The Vendor further warrants that:
 - 14.2.1 he has notified the Auctioneer in writing of all (if any) of the Lots he has entered for sale have been written off by an insurance company or if at any time they have been the subject matter of an insurance claim;
 - 14.2.2 as far as he has been able to do so given the age, condition and usage of any Lot that he has taken all reasonable steps to ensure the Lot is safe and without risk to the health and safety of the Auctioneer, his employees, contractors, the Purchaser and any other person attending the Sale and that he indemnifies each of them against any claims under the current Health and Safety, Consumer Safety, Consumer Protection or other relevant legislation in force at the time of the Sale; and,
 - 14.2.3 unless otherwise disclosed on the Entry Form any motor vehicle is in a roadworthy condition and complies with the requirements of the current Road Traffic Act and any regulations made under that Act and that it is sold with the benefit of a current MOT certificate which will be transferred to the Purchaser by the Vendor.

15 Principal and agent: joint and several liability: bids by agents

- 15.1 Where a Lot is offered for sale by a person in his own name but he is actually acting as an agent he shall, if so required by the Auctioneer, be bound to disclose the name and address of his principal and in such a case both the principal and the agent shall be jointly and severally liable and any steps authorised by these Conditions or by the general law may be taken against either or both of them.
- 15.2 Any person intending to bid for any Lot as an agent shall inform the Auctioneer before the sale of such Lot begins and shall, if required by the Auctioneer, disclose the name and address of his principal.
- 15.3 Subject to Condition 15.4, in all cases where a person whose bid is accepted is actually acting as an agent, whether or not he has disclosed that fact, he and his principal shall be deemed to be and shall remain jointly and severally liable and:
 - 15.3.1 any steps or proceedings authorised by these Conditions or the general law may be taken or commenced against either or both of them; and,
 - 15.3.2 no steps taken or proceedings commenced against the principal or the agent shall be deemed to operate as an election discharging the other from liability unless such steps or proceedings result in a final satisfied judgment.
- 15.4 Condition 15.3 shall not apply if before the commencement of the Sale the person acting as an agent informs the Auctioneer that he intends to bid as a principal, in which case he will be deemed to be solely liable.

16 Name of Purchaser: payment of purchase money: transfer of title

- 16.1 The Purchaser shall give his name and address (and proof of identity if required) to the Auctioneer when requested to do so.
- 16.2 The Purchaser shall pay the purchase price (and, if charged, the appropriate VAT and Buyers Premium) for each Lot that he bids for successfully at the Sale to the

Auctioneer as soon after the Contract for Sale as the Auctioneer may require. Any time allowed for payment in respect of any purchase shall not be construed as a waiver of the right to require earlier payment on any subsequent purchase.

- 16.3 The Purchaser shall not make any set-off or other plea for non-payment of the purchase price and shall be liable to the Auctioneer for any unpaid purchase price whether or not the Lot he successfully bid for has been delivered.
- 16.4 Until the Purchaser makes payment in full to the Auctioneer, the Purchaser shall keep the Lot in good, marketable, and readily identifiable condition and shall not re-sell it.
- 16.5 In the event of a re-sale by a Purchaser before payment has been made in full to the Auctioneer the Purchaser shall hold the proceeds of such re-sale on trust for the Auctioneer (as agent of the Vendor).
- 16.6 Although the risk in any Lot may have passed to the Purchaser, title to the Lot will remain with the Vendor until the Purchaser has paid the purchase price for that Lot in full into the Auctioneer's bank account within the timescale from the End of the Day's Sale as set out in the Auctioneer's terms of business.
- 16.7 If the title to the Lot does not pass to the Purchaser within the relevant timescale allowed for payment in this Condition the Vendor may then, but only then, recover possession of the Lot from the Purchaser and the Vendor or the Auctioneer may enter on the Purchaser's premises (or such other premises where the Lot is held) in order to do so.
- 16.8 The Auctioneer does not have any obligation to pay out to the Vendor, until the Purchaser has paid the Purchase Price. Any payment to the Vendor before the Purchaser has made payment in full is made at the Auctioneer's sole discretion.
- 16.9 If the Auctioneer accounts to the Vendor for the purchase price for a Lot (less the applicable charges) before the Purchaser has made payment in full to the Auctioneer the Auctioneer shall be entitled to any rights in that Lot which the Vendor may have under Condition 16.6.

17 Sales of Lots by a Purchaser

If, before a Lot is removed from the Sale Premises, the Purchaser of that Lot sells it to another person and notifies the Auctioneer of the name and address of that person then that person shall be treated as the Purchaser of the Lot and shall be entitled to all the rights, and be subject to all the obligations, of the original Purchaser under these Conditions but this will not affect the right of the Vendor, or the Auctioneer as agent for the Vendor, to hold the original Purchaser liable if the subsequent Purchaser fails to fulfil any of those obligations.

18 Responsibility for Lots before and after the Sale

- 18.1 All Lots are at the risk of the Vendor before the Sale and it shall be his duty to preserve them.
- 18.2 On the Contract for Sale each Lot is at the risk of the Purchaser.
- 18.3 The Auctioneer shall have no liability to notify the Vendor if any Lot is not sold.
- 18.4 If the Auctioneer expressly agrees to take charge of any Lot after the Sale or to forward it to its destination he shall be liable for any failure to fulfil this obligation which is due to his or his employees' or contractors' negligence, but otherwise he shall have no liability or obligation for the safe custody of any Lot after the Sale.

19 Removal of Lots from the Sale Premises

- 19.1 The Purchaser shall remove the Lot he has purchased from the Sale Premises following payment in full to the Auctioneer but only after the Auctioneer has issued him with a written pass and then at his own expense and within such reasonable time after the End of the Day's Sale as the Auctioneer may direct.
- 19.2 No Lot whether sold or unsold shall be removed from the Sale Premises unless a written pass has been issued by the Auctioneer to the person making the removal and the written pass has been checked at the point of removal by a representative of the Auctioneer.
- 19.3 Unless otherwise agreed in writing with the Auctioneer all Lots must be removed from the Sale Premises within such period as may be stipulated by the Auctioneer failing which the Auctioneer shall have the right without further recourse to the owner of the Lot to enter the Lot and to sell it without Reserve Price in any future Sale.
- 19.4 The Auctioneer may require any Vendor to remove any Lot from the Sale Premises without giving a reason and if the Vendor fails to do so, the Auctioneer may himself remove the Lot and may recover the reasonable costs of doing so from the Vendor.

SCHEDULE 2
WARRANTY RIGHTS AND RETURN OF LOTS

20 Vendor's warranty to the Auctioneer

- 20.1 His identity.
- 20.2 That he is competent to transfer a good and marketable title to his Lots free from any third party claims, liens, and charges, and that, unless otherwise stated in writing, all details on the Entry Form are correct; and,
 - 20.2.1 that no Lot is subject to any hire purchase or lease agreement or any other similar agreement;
 - 20.2.2 that the Auctioneer may make such announcements or publish such information supplied by the Vendor as he in his absolute discretion thinks fit; and,
 - 20.2.3 that he will fully and effectually indemnify the Auctioneer in respect of any Warranty that is found to have been made by the Auctioneer as a result of such announcements or publications.

21 Inspection of Lots

- 21.1 Unless a Warranty is specifically given for a Lot and announced by the Auctioneer at the time of the Sale all Lots are sold with all faults and imperfections and errors of description. An intending Purchaser should satisfy himself, by inspection of the Lot prior to the Sale, as to its condition and should exercise and rely upon his own judgment as to whether the Lot accords with its description.
- 21.2 Neither the Auctioneer, his employees or contractors are responsible for errors of description or for the correctness or authenticity of any Lot.
- 21.3 Unless otherwise specifically stated by the Auctioneer at the time of Sale no Warranty is given or shall be implied by the Auctioneer, his employees or contractors nor by any Vendor to any Purchaser in respect of any Lot.
- 21.4 If any Lot is described by the Vendor as in "working order" such Lot shall be free of any defect which renders it incapable of the reasonable work for which it is intended and it must be capable of performing such work.
- 21.5 Any Lot described by the Vendor as "just overhauled" or "straight from work", or "worked up to the date of the Sale", or "as new", or any other description calculated to influence an intending Purchaser shall be deemed to be sold with a Warranty that such a Lot is in "working order" as described in Condition 21.4.
- 21.6 Electrical Lots which by statute require an electrician's safety certificate shall not be accepted as an entry for a Sale unless accompanied by such a valid certificate; however, if the Auctioneer in his discretion conditionally accepts such a Lot which is not accompanied by a valid certificate, it shall be lawful for the Auctioneer to remove its lead or plug and sell that Lot as scrap without further consultation with the Vendor.

22 Breaches

- 22.1 Except as expressly provided in these Conditions with regard to any Lot sold the Purchaser shall Take Delivery of each Lot with all (if any) faults, imperfections and errors of description.

- 22.2 If the Purchaser does not fully comply with these Conditions he shall be bound to keep the Lot with all faults and shall have no claim for damages or otherwise against the Vendor or any other person.

23 Remedy for breach of Warranty, other than Warranty of title

- 23.1 Except where otherwise expressly provided, the breach of any Warranty in these Conditions shall give the Purchaser a right to refuse to Take Delivery of or to return the Lot in accordance with these Conditions and to recover such reasonable costs and charges as he may be entitled to under these Conditions, but shall give him no right to claim damages from the Vendor as a result of him exercising such right of refusal or return. A Purchaser is entitled to the remedies set out in these Conditions, but no others.
- 23.2 No claim by a Purchaser under these Conditions shall be valid unless the Purchaser first notifies the Auctioneer in the manner and within the time limits set out in these Conditions.
- 23.3 Where under these Conditions the Purchaser has the option of returning a Lot or claiming damages then, unless within 3 days after first notifying the Auctioneer or the Vendor of his claim he either returns the Lot to the Auctioneer or, as the Auctioneer may direct, to the Vendor or gives notice in writing to the Auctioneer and the Vendor of his intention to return the Lot and of his willingness to comply with any directions which may be given to him regarding the return of the Lot, the Purchaser shall be taken to have elected to claim damages and to have waived any right to return the Lot.
- 23.4 Where under these Conditions the Purchaser's sole remedy is to return the Lot it shall be returned within 3 days of any request to do so by the Auctioneer.

24 Complaints procedure

- 24.1 If any Purchaser shall dispute the accuracy of any description or shall make a claim for Breach of Warranty he shall notify the Auctioneer as soon as is practicable after the Sale but in any event no later than midday on the third Working Day after taking physical possession of the Lot and shall at his own expense return such Lot together with a competent engineer's report setting out the full details of the alleged complaint to the Auctioneer's office not later than four days following the date of notification of the complaint to the Auctioneer.
- 24.2 On receipt of such notification of a complaint the Auctioneer shall immediately notify the Vendor in writing of the complaint and of its nature.
- 24.3 If the engineer's report confirms a Breach of Warranty the sale to the Purchaser shall be rescinded.
- 24.4 If the engineer's report is inconclusive or if the Purchaser has failed to supply a competent engineer's report within four days of the date of notification of the complaint to the Auctioneer, the Auctioneer may appoint as arbitrator any person including but without limitation any partner in his own firm or any person in his employ whose decision shall be final and binding on the Vendor and the Purchaser.
- 24.5 Notwithstanding any other provision of these Conditions, where by these Conditions any report, notice or opinion must be provided within any specified period, the Auctioneer may, either before or after the expiration of the specified period, allow such further time for the delivery of the report, notice or opinion as he may in his sole discretion think fit. Such a decision should be communicated in writing by the Auctioneer to all parties involved.

25 Return of Lots

- 25.1 If the sale of any Lot is rescinded under these Conditions and the Purchaser has incurred any transport costs in connection with the Lot or has incurred expense in connection with a relevant engineer's report, the Vendor shall reimburse the reasonable costs of obtaining them to the Purchaser.
- 25.2 If any Lot is returned by the Purchaser to the Sale Premises or to the Auctioneer's office (as the Auctioneer shall instruct) and neither the Vendor nor the Purchaser removes the Lot within seven days after written notice from the Auctioneer to do so, the Auctioneer may re-sell the Lot by Public Auction, Online Auction or Private Treaty without Warranty or reserve, and without further notice to the Vendor or the Purchaser.
- 25.3 The monies produced by such re-sale after deducting the costs and charges of and attendant on the re-sale, a reasonable sum for the storage of the Lot and any other charges necessarily or reasonably incurred, shall be held by the Auctioneer on behalf of the person who proves to be entitled to them, or may be paid into Court under interpleader proceedings.
- 25.4 If the monies produced by the re-sale are insufficient to cover the costs and charges referred to in these Conditions the Auctioneer shall be entitled to recover the shortfall from the person who was the owner of the Lot immediately before its re-sale.
- 25.5 Notwithstanding the rescission of the sale of a Lot under these Conditions the Vendor shall remain liable to pay to the Auctioneer a sum representing the Commission (plus VAT) which would have been payable to the Auctioneer if the sale had not been rescinded.
- 25.6 Where these Conditions require the return of a Lot within a specified time period, the Auctioneer may either before or after the expiration of the specified time period allow such further time for the return of the Lot as he may, in his sole discretion, think fit. Such a decision should be communicated in writing by the Auctioneer to all the parties involved.

26 Road Traffic Act, Health and Safety Act and other statutory regulations

- 26.1 It shall be the responsibility of the Purchaser:
 - 26.1.1 Of any self propelled vehicle or of any trailer, before such vehicle or trailer is used on the public highway, to ensure that it is roadworthy and that it complies with all legal requirements as to the construction and use and to obtain any necessary certificates, licences, or other authorisations; and,
 - 26.1.2 Of any machinery or implements or other equipment to ensure that it complies with the relevant legislation and regulations and the Purchaser undertakes with the Auctioneer and the Vendor to ensure that it so complies before using it after purchase at the Sale.

27 Default

- 27.1 If a Purchaser fails to perform any of his obligations under these Conditions the Auctioneer may decide in his sole discretion that the Lot in respect of which the failure is made to be resold by Public Auction, Online Auction or Private Treaty without warranty or reserve and without notice to the Purchaser.
- 27.2 If on such resale a lower price is obtained for any Lot than was obtained at the Sale, the Purchaser shall be liable to the Auctioneer for the difference in price together with all associated resale costs and expenses incurred on the resale.

ONLINE AUCTIONS ADDENDUM TO CONDITIONS OF SALE



**Recommended for use by Member firms of
The Livestock Auctioneers' Association Ltd**

(Revised January 2022)

ONLINE AUCTIONS

1 General

- 1.1 The conditions set out in this addendum apply only to Online Auctions and should be read in conjunction with the main Conditions.
- 1.2 The Definitions listed in the main Conditions apply to this addendum.
- 1.3 All persons registered to bid in any capacity are deemed to bid on the understanding that they have read and understood the Conditions, including this addendum.
- 1.4 All persons registered to bid in any capacity confirm that they understand that placing a bid implies an obligation to pay, if they are the highest bidder.
- 1.5 For the purposes of condition 7.1 of the Machinery Conditions, and 8.1 of the Livestock Conditions these are special conditions which will prevail in the event of any conflict with the main conditions.
- 1.6 Information applicable to the Sale may also be set out in the catalogue for the sale, and/or in the Auctioneer's own terms and conditions and website notices. It is the Purchaser's responsibility to review that information.
- 1.7 Under Condition 12 of the Machinery Conditions, and Condition 14 of the Livestock Conditions, where the Vendor is responsible for providing documentation to accompany a Lot, that documentation should be provided direct to the Purchaser rather than to the Auctioneer.

2 Information Required

- 2.1 A description of the main characteristics of a Lot is provided in the catalogue.
- 2.2 The name, address, VAT number, and contact details for the Auctioneer will be provided within the catalogue or on the Auctioneer's website. The location of the Lot for sale will be provided within the catalogue.
- 2.3 The amount to be paid by the Purchaser will be comprised of the Sale Price plus any VAT and other premiums payable as set out within the catalogue or Conditions.
- 2.4 Arrangements for delivery or collection of the Lot will be set out in the catalogue and in the order confirmation referred to in 5.2 of this addendum. Any charges for delivery of a Lot, or how those charges will be calculated will be set out in the catalogue.
- 2.5 Any complaints should be directed to the Auctioneer in writing via the contact details given for them on their website. Any complaints should be made within 3 days of the end of the Online Auction.

3 Consumer Contracts

- 3.1 If the Purchaser is a Consumer in accordance with the Consumer Rights Act 2015 and the Vendor is a Trader in accordance with that same Act, the conditions in this section ("3. Consumer Contracts") apply.
- 3.2 The Purchaser has a right to cancel the contract for the purchase of a Lot, without giving any reason.

- 3.3 The cancellation period will expire 14 calendar days from the day after the date on which the Purchaser or a third party authorised by the Purchaser Takes Delivery of the Lot.
- 3.4 To exercise the right to cancel the Purchaser must inform the Auctioneer who is offering to sell the Lot of their decision to cancel the Contract for Sale by written communication, which can include email. A precedent cancellation notice is set out at the end of this Addendum, but the use of this is not obligatory if the communication is clear.
- 3.5 If the Purchaser cancels the contract they are entitled to reimbursement of the amount paid. Reimbursement will be made without undue delay and in line with the following timescales:
 - 3.5.1 If the Lot has been collected, 14 calendar days after the day on which the Lot is returned to the address agreed with the Auctioneer and proof of return is provided by the Purchaser.
 - 3.5.2 If the Lot has not been collected, 14 days after the day on which the Purchaser inform the Auctioneer of their decision to cancel the contract.
- 3.6 The costs of returning the Lot to either the Auctioneer or the Vendor (whichever is agreed with the Auctioneer) are to be met by the Purchaser.
- 3.7 The Vendor is entitled to deduct from the amount to be refunded any loss in value which is attributed to the actions of the Purchaser.
- 3.8 Legal ownership of a Lot will immediately revert to the Vendor once a refund is made to the Purchaser, unless otherwise agreed with the Auctioneer.
- 3.9 The right to cancel does not apply in the following circumstances:
 - 3.9.1 Where the Purchaser meets the Vendor in person (e.g. to view the goods before agreeing to buy);
 - 3.9.2 Goods whose price fluctuates with financial markets;
 - 3.9.3 Goods made to the consumer's specification
 - 3.9.4 Personalised goods
 - 3.9.5 Perishable goods
 - 3.9.6 Items sold at public auction where bidders can choose either to attend in person or bid through the website
- 3.10 These Conditions and this Schedule are not intended to limit the actions available to a Consumer under the Consumer Rights Act 2015 or the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013. Notice of any claim under these Enactments should be given to the Auctioneer within the statutorily prescribed time limit.

4. Business Contracts

- 4.1 The conditions within this section ("4. Business Contracts) apply if the Purchaser is acting in the course of their business or trade.
- 4.2 The Lot is sold "as seen". The Vendor makes no representations and gives no warranties as to the quality, condition, state or description of the Equipment, or their fitness or suitability for any purpose. All implied statutory or common law terms, conditions and warranties as to the Lots are excluded to the fullest extent permitted by law.

- 4.3 The law which governs the contract created by the Sale of a Lot is English Law and English Courts will have exclusive jurisdiction to deal with any claim arising from a dispute.

5. Order Confirmation Process

- 5.1 The successful highest bidder will be provided with an on screen automated confirmation that they are the highest bidder on the online auction platform. This does not mean that the bid has been accepted or that a contract has been made.
- 5.2 The Contract for Sale between the Vendor and the Purchaser is formed when the highest bidder is confirmed by email following the end of the Online Auction. The email will confirm that the bid has been accepted and will state the full amount to be paid by the Purchaser. The email will also confirm the name of the Seller and the full address for the collection of the Lot.

6 Removal of Lots

- 6.1 The Purchaser shall remove the Lots he has purchased following payment in full to the Auctioneer.
- 6.2 Unless otherwise agreed in writing with the Auctioneer all lots must be removed from the address provided by the Auctioneer. Removal should occur within the period stipulated by the Auctioneer, failing which the Auctioneer shall have the right to rescind the contract and offer the Lot for sale without any Reserve Price and without further recourse to the owner of the Lot.

CANCELLATION FORM

To [insert name, address, telephone number and email address of the auctioneer]

I/We [name] hereby give notice that I/we cancel my/our contract of sale of the following goods:

Auction Title:

Auction Date:

Lot No:

Brief Description of Lot:

Bid successfully on:

Received on:

Name of consumer(s)

Address of consumer(s)

Signature of consumer(s)

Date: