

Morris Leslie

PLANT AUCTIONS

Conditions of Entry & Sale

1. All lots - which shall include all forms of personal property whatsoever and properly fitted or affixed to land - are tendered for sale subject to these conditions, no variation of which shall be valid unless made in writing and signed by a person duly authorised by the Auctioneer. "The Auctioneer" shall mean the company or firm or person, or his or their servant or agent, who has agreed to auction any lot. The Auctioneer offers each lot as agent of the vendor and not as principal unless otherwise stated in the auction catalogue.

2. All items sent to the auction site for sale and left on the premises are left at the vendor's risk and so remain until the fall of the hammer or if unsold until removed by the vendor. The Auctioneer accepts no responsibility to any party for any loss or damage which may arise by whatsoever cause or in whatsoever circumstances. If items are demonstrated to prospective purchasers they are run at the vendor's risk. No item will be accepted for sale unless the appropriate entry form has been completed in all respects and signed by the vendor. The Auctioneer may complete and sign the entry form on behalf of the vendor; the Auctioneer accepts no liability to any party for any loss which may arise as a result thereof. In the case of vehicles the registration document (and Test and plating certificates where appropriate) must be handed to the Auctioneer; payment for vehicles will be withheld until these documents are produced. The particulars on the entry form and the vendor's description of the items shall form the basis of the contract between the Auctioneer and the vendor; the Auctioneer shall not be liable to any person for any loss which may arise through the use of such particulars or descriptions. It is the vendor's responsibility to clearly identify to the Auctioneer each item as it is delivered or brought to the auction site and to ensure that any reserve prices are attributed to the correct items; the Auctioneer accepts no responsibility to any person for any loss that may arise as a result of the vendor's failure to do so. The Auctioneer shall have the sole and exclusive right at the site of the auction to determine all matters whatsoever concerning the conduct and/or effect of any auction sale or purported sale and without prejudice to the generality of the foregoing he shall be entitled to resolve disputes between bidders, reject any bid, withdraw, divide or consolidate any lot or lots. The seller or his representatives or the Auctioneer on his behalf may bid up to the reserve price on any lot. If a reserve price is not stated on the appropriate place on the entry form the lot will be sold without reserve. An entry form bearing the words "nett" or "clear" or otherwise qualified in any way will be interpreted by the Auctioneer as giving authority to sell at the price given on the entry form. Vendors wishing to remove their own items from the site must first apply to the Auctioneer's office for a pass and thereafter report to the Stewards at the Collection point. No items may be removed from the site before the end of the sale. The Auctioneer will make every effort to pay the Vendor two weeks after the sale, but shall not be obliged to pay the sale price unless and until the Auctioneer has received the price in full and any cheque in respect thereof has been cleared.

3. The Auctioneer shall be entitled to charge commission on the price at which each lot is sold, such commission being due by the vendor at the time of the sale. If any item or lot is entered for sale and is sold by the vendor or his servant or agent to any person whether such person has or has not attended the sale, that sale shall be deemed to have been effected by the Auctioneer as agent for the vendor, and full commission will be payable.

4. By making a bid for any lot, the person making the bid warrants that he has read, makes his bid upon and agrees to be bound by these Conditions, and further warrants that he has due authority and capacity to make the bid and binds both himself and any employer or principal to honour any contract resulting therefrom. Any bid shall be deemed to be an offer by the buyer (a term used herein as including the bidder and any employer or principal of the bidder) to purchase any lot tendered upon these conditions alone.

5. Instructions in writing only to bid for buyers unable to attend the sale in person may be accepted by the Auctioneer without any liability to the vendors or to himself and always subject to the conditions of sale.

6. The sale of any lot shall be concluded and binding at the moment when the lot is knocked down. The highest bid

will be accepted save in exceptional circumstances, such circumstances to be determined by the Auctioneer whose decision shall be unchallengeable.

7. The Auctioneer reserves the right to sell by private treaty at the reserve price or such other price as may be agreed by the vendor any lot which has failed to sell at auction. Commission shall be payable by the vendor and service charge payable by the buyer in accordance with the conditions of sale.

8. The Auctioneer will be entitled to require proof of identity and/or authority from any bidder. The buyer must identify himself and any principal or employer together with appropriate means of identification to the Auctioneer and must pay 25% of the sale price forthwith by way of a deposit. The total price, less any such sum, must be paid to the auctioneer at his office or elsewhere as he may direct. Payment in full shall be deemed not to have occurred until any negotiable instrument has been honoured in full (or cash has been paid) such payment to be made within the time specified in the sale notes, which are hereby declared to be incorporated in these Conditions of Entry and Sale.

Time of payment shall be of the essence. The buyer shall not be entitled to remove any lot until the purchase price of that and of any other lot purchased at the auction has been paid in full and in default of payment as aforesaid the Auctioneer shall have lien upon all lots purchased by the buyer during the same auction and shall be entitled to rescind the sale in respect of any lot or lots for which full payment is not made in due time, forfeit any deposit paid in respect of them and resell the same without any right of compensation to the buyer. The Auctioneer shall be entitled to charge interest on any unpaid balances at the rate of 4% above The HSBC base rate from time to time and to charge for storage arising after the time for removal at the rate of 25% per annum of the sale price until he elects to rescind the sale, if at all, which election he may make at any time after such non-payment.

9. The title to any lot shall remain with the Seller until the full sale price and any storage and interest charges have been paid to the auctioneer, but the risk of damage to or loss of the lot by whatsoever cause and in whatsoever circumstances shall be transferred to the buyer upon the fall of the hammer.

10. The Auctioneer warrants that he will only sell lots which he believes to be owned by the Seller or to which the Seller will be able to pass a good title but should it transpire that the Seller's title to any lot is defective or that the Seller cannot pass a good title to the buyer, the Auctioneer shall be under no obligation to the buyer, other than to use his best endeavours (short of litigation) to procure the transfer of a good title to the buyer and to assist the buyer in exercising any remedies that he may have against the seller.

11. The buyer shall remove any lot for which he has paid in full plus other charges if any by the time for removal, which shall be either the time for payment or the time stated in the sale notes, whichever shall be the later, but provided that no lot shall be removed without the Auctioneer's express written consent while the Auction is continuing. The buyer shall be responsible for the removal of the articles and such removal must be carried out safely and lawfully. Flame cutting, the use of explosives or of any other potentially hazardous or inflammatory process shall not be permissible at the site without the express written permission of the Auctioneer. The buyer agrees to insure against and to indemnify the Auctioneer and the seller against any and all claims arising in respect of injury or damage to person or property whether real or personal, caused by or in connection with the acts or omissions of the buyer, his servants or agents or his principals or employer.

12. All conditions and warranties as to the condition, quality, description or fitness for any purpose whatsoever of any lot offered for sale or sold by the Auctioneer are hereby expressly excluded. No vehicle is warranted or held out to be roadworthy and no lot is warranted or held out to be merchantable or safe for use or complying with statutory requirements for use, display or movement. Neither the Seller nor the Auctioneer will be bound by or liable for any representation of any kind whatsoever, whensoever howsoever made. Neither the Auctioneer nor the seller shall be liable for any loss or damage whether caused by negligence or otherwise of either or both or of their servants or agents and without prejudice to the generality of the foregoing neither the Auctioneer nor the Seller shall be liable for any loss of profit, business or production or similar or other

loss whether direct or indirect or consequential, however caused.

In the circumstances any potential buyer should rely solely and exclusively upon his own inspection of any lot and should not treat statements made in sale particulars or before or during the Auction by the Seller or the Auctioneer either as representations or to be relied upon. The Auctioneer has no authority to make representations. Buyers are advised that a sale by auction is not a consumer sale.

13. The buyer hereby undertakes to ensure that any lot he purchases will be used, moved or displayed whether at the site of the auction or elsewhere only when he has ensured that such use and/or movement and/or display is lawful and safe.

14. At the time of sale any item of plant, machinery or equipment contained in any lot(s) may not necessarily comply with the Health and Safety at Work etc Act 1974 or any other Act or Acts or Regulations enacted thereunder. Buyers are required to ensure that the use of any lot at a place of work within the United Kingdom does not contravene the said Act or Regulations. Certain types of plant or installations could contain blue or white asbestos, dangerous chemicals etc which if not handled correctly during their removal from the site could be in breach of the said Act or Regulations or any other current legislation covering the use or handling of such substances in a working environment.

15. Where a vehicle is purchased which does not comply with the Road Traffic Acts and/or the Motor Vehicles (Construction and Use) Regulations or any similar or subsequent enactment the buyer shall not remove it from the Auctioneer's premises under its own power. All vehicles are sold on the condition that they will not be used on any road in the United Kingdom until such actions necessary to make them comply with such enactments have been taken by the buyer.

16. Where any lot or lots have been sold by count, weight or measurement, no allowance can in any case be made nor shall the Auctioneer or Seller be answerable for any deficiency in quantities, weights or measures, unless notified before the buyer or his representative has removed such lot or lots from the premises.

17. Should a buyer, by himself, his servants or agents cause damage in any way to the site of the auction or damage to or loss of any lot, the Auctioneer shall be entitled to exercise a lien in respect of any and all lots purchased by the buyer until such damage or loss has been paid for in full, such loss and damage to be assessed

by the Auctioneer whose decision shall be final and unchallengeable. The Auctioneer's assessed sum shall be paid for by the buyer upon receipt of the invoice therefor and payment made forthwith, time being of the essence.

18. Neither the Auctioneer nor the Seller shall be responsible for any personal injuries which may occur prior to or during the progress of the sale or at any time during the removal of the lots which must be entirely at the buyer's risk.

19. If before title to any lot has been passed to the buyer, the buyer being an individual dies, enters into a composition or arrangement for the benefit of creditors or is subject to sequestration or bankruptcy proceedings or being a body corporate has a receiver or administrative receiver appointed or goes into liquidation or provisional liquidation or enters into a composition or arrangement for the benefit of its creditors, then the contract for sale of each lot shall be automatically and without notice rescinded unless the Auctioneer elects otherwise within 2 working days of written notice of such an event. Upon rescission any deposit paid by the buyer shall be forfeit and the Auctioneer shall be entitled to exercise the rights set out in these Conditions.

20. If a buyer is permitted to take possession of any lot before the full sale price has been paid the Seller and/or Auctioneer shall be entitled to enter upon any premises of the buyer or under his control in order to repossess such lot.

21. If before title passes to the buyer under these conditions the buyer nevertheless purports to resell or otherwise dispose of any lot or any interest therein, the buyer shall hold the proceeds of such sale or other disposition on trust for the Auctioneer and the Seller jointly under these Conditions and in the meantime the buyer shall not deal with, charge or dispose of such proceeds except with the written consent of the Seller or the Auctioneer.

22. These Conditions shall be construed in accordance with and governed by the Law of Scotland.

Morris Leslie Plant Auctions is a trading name of Morris Leslie Plant Ltd

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www.morrisleslie.com