

## **DISCLAIMER:**

**If you are an individual and are bidding on and/or purchasing Lot(s) wholly or mainly for your personal use (not for use in connection with your trade, business, craft or profession), the auction terms and conditions marked for consumers will apply to you.**

**If you are a business customer and are bidding on and/or purchasing Lot(s) wholly or mainly for use in connection with your trade, business, craft or profession or on behalf of a business, the auction terms and conditions marked for businesses below will apply to you. Even if you are an individual bidding on and/or purchasing Lot(s), we consider you a business customer if you represent a business.**

### **Cornthwaite Group Online Auction Terms and Conditions (Consumers)**

These are the Terms and Conditions on which we sell machines, equipment and any other the products listed for auction on our website (the Lots) [cornthwaitegroup.com/online-auction#!/](http://cornthwaitegroup.com/online-auction#!/) (our site) to consumers.

Please read these Terms and Conditions carefully before creating an account, placing a bid or purchasing any Lots from our site. When you create an account or register for an auction to place a bid with us, you will be invited to agree to these Terms and Conditions by ticking the box marked "I agree to the terms and conditions". If you don't accept the Terms and Conditions by ticking this box, you will not be able to create an account on our site, place a bid or purchase any Lots from our site.

We recommend that you print a copy of these Terms and Conditions for future reference.

#### **1. INFORMATION ABOUT US**

Our site is operated by the Cornthwaite Agricultural Limited (we, our, us). We are registered in England and Wales under company number 06236827. Our registered office is at Hall Lane, Bispham Green, Ormskirk, Lancashire, L40 3SB. Our VAT number is 901536257. Our trading address is at Hall Lane, Bispham Green, Ormskirk, Lancashire, L40 3SB.

#### **2. YOUR STATUS**

These Terms and Conditions will apply to you if you are an individual and are bidding on and/or purchasing Lot(s) wholly or mainly for your personal use (not for use in connection with your trade, business, craft or profession).

If you are a business customer and are bidding on and/or purchasing Lot(s) wholly or mainly for use in connection with your trade, business, craft or profession or on behalf of a business, our auction terms and conditions for businesses ([cornthwaitegroup.com/all](http://cornthwaitegroup.com/all)) will apply to you instead. Even if you are an individual bidding on and/or purchasing Lot(s), we consider you a business customer if you represent a business.

By registering for an account, placing a bid on and/or purchasing Lot(s) on our site you warrant that:

- you are legally capable of entering into binding contracts; and
- you are at least 18 years old.

### 3. REGISTRATION

If you wish to bid on Lots through our site, you must first register for an account and provide all relevant information we may need from time to time.

By registering for an account, you acknowledge that only adults aged 18 years and over are entitled to enter into a legally binding contract and as a result they are the only people entitled to register for an account and participate in an auction. By registering, you warrant that you are aged 18 years or older and are capable of forming a legally binding contract.

We, at our sole and absolute discretion, decide whether we approve your registration application or decline such registration. We are under no obligation to accept your registration or provide a reason for declining any registration.

These Terms and Conditions are binding on you from the date you complete the account registration.

You need to register as a bidder if you wish to participate in an auction, either before the commencement of an auction or whilst an auction is live. If you fail to register as a bidder for a specific auction you will not be able to participate in that auction.

You may be required to provide valid photo identification (current passport or driving licence) and we may refuse to accept a bid if you fail to show us identification when requested.

We reserve the right to remove, close, withdraw, disallow or block access to any account and/or the site if a user, bidder or buyer breaches these Terms and Conditions or any terms of use of our site, or, a buyer fails to complete on any purchase of the Lot(s) after we have accepted the bid.

You agree to notify us immediately if any of your registration details change by sending an email to [auction@cornthwaitegroup.com](mailto:auction@cornthwaitegroup.com). At the point of registration, you will be asked to create a password.

You are responsible for:

- The use and username and password and for ensuring full compliance with these Terms and Conditions.
- Keeping your password confidential and notifying us immediately if you suspect unauthorised use by a third party.
- Not sharing any passwords or log in details.
- Not allowing third parties to access the site for any purposes whatsoever.
- Not attempting to transfer any account to any other person or entity. If you attempt to do so you will be in breach of these Terms and Conditions and will have your access suspended, blocked or removed.

By registering for an account, you acknowledge our website terms of use (<https://www.cornthwaitegroup.com/website-terms-of-use>).

In the event of a security breach you will be given the ability to change your username and password, which you must do immediately.

We will not be responsible for any losses suffered from a security breach which has been caused by you.

#### **4. WARRANTIES IN RELATION TO OUR AUCTION PRODUCTS AND YOUR ACKNOWLEDGEMENT**

We warrant that:

- we have good title to the Lot(s) listed for sale by auction on our site;
- our site listings/descriptions for Lots are accurate from the information provided or available to us;
- all Lots are free of any encumbrances, security, financial incumbents, reservations of title or any other lien.

Save for the above warranties, we do not offer any further representations or warranties in relation to the Lots.

You agree and acknowledge that:

- the sale is a sale by auction;
- the Lots are intended for use only in the UK. We do not warrant that the Lots comply with the laws, regulations or standards outside the UK;
- unless otherwise stated, all Lots are not new and are second hand or previously owned;
- unless otherwise stated, no Lot has been repaired, serviced or inspected;
- all Lots are "sold as seen" with any faults and imperfections and errors of description and accordingly we do not give any warranty that any Lot is fit for purpose, in working order, fault or defect free or has been maintained or serviced;
- you should satisfy yourself prior to bidding as to the origin, description, suitability, age, durability, completeness, operability, state and condition of the Lot(s);
- you are entitled, subject to our prior agreement, to inspect the Lot(s) before the auction ends. The depot at which each Lot is stored can be found on the specific Lot page on our site;
- you should exercise and rely on your own judgment as to whether the Lot(s) is fit for the purpose you require.

All warranties and representations implied or imposed by trade, custom, practice, statute, legislation or common law are excluded to the fullest extent permitted by law. You further acknowledge that you have not relied upon any representation or warranty made to you by us, our employees or agents in relation to the Lot(s) unless such representation or warranty has been confirmed in writing prior to auction.

## **5. BIDDING PROCESS**

YOUR BID IS BINDING. IF YOU DON'T INTEND TO BE BOUND BY YOUR BID, PLEASE DO NOT PLACE A BID. IF ACCEPTED, YOUR BID WILL FORM THE BASIS OF A BINDING AGREEMENT WITH US WHICH WILL CONTAIN THESE TERMS WITHIN IT.

Before the auction commences, you accept that the auction is conducted online and you acknowledge that we will not be liable for any loss you may suffer if our site fails or if you lose internet connection howsoever caused.

We grant you access to our site to place bids on Lot(s) listed for sale by auction and full instructions on how to place a bid and details of the expiry date and time of each auction will be posted on our side but all bids and transactions will be subject to these Terms and Conditions.

A listing does not constitute an offer and any listing may be withdrawn at any time with immediate effect.

We will specify the time that any auction closes with respect to the Lot(s).

We may in our absolute discretion and without providing a reason:

- limit or restrict who can place a bid;
- refuse to admit any person to the bidding process;
- update the description of the Lots at any time;
- remove Lots from the auction and sell them privately;
- refuse to accept/or may reject a bid at any time prior to the formation of the Contract;
- set a reserve price for the Lot(s).

Once you have placed a bid on the Lot(s), you acknowledge that the bid may not be withdrawn and if your bid is successful, it is a legally binding commitment to purchase the Lot(s).

## **6. WE MAY REJECT YOUR BID**

If we specify a reserve for any of the Lot(s) listed for auction, we will not accept a bid that is lower than that reserve. Any bid accepted lower than the reserve may be due to a technical fault and will be invalid. We will not be deemed to have accepted a bid that is lower than the reserve on the basis of an error and mistake.

Where an accepted bid is shown to be due to a technical error or where it would be reasonably obvious that it was an error (if, for example, we list a Lot at £200,000 which has a bid accepted at £20), that bid will be null and void and not binding on us.

If the reserve has not been met or exceeded, no sale will be completed, although we may, at our discretion, approach customers directly and invite offers.

## **7. SUCCESSFUL BIDS**

To be the successful bid, your bid must be the highest bid before the auction closes and must meet any other conditions which may be specific to each Lot. If any additional conditions apply, they will be published on our site alongside the description of the Lot prior to the commencement of each auction.

If your bid is the highest when the auction closes (and meets any other conditions), your bid is deemed accepted by us, a contract between you and us (our Contract) will be made and you will be committed to purchase the Lot(s) in accordance with these Terms and Conditions at the value of the bid.

We reserve the right to refuse or remove bids and/or suspend, cancel or extend auctions at our absolute discretion, including where there are or have been obvious typographical or arithmetical inaccuracies or technical issues.

If your bid is successful, we will contact you by email to confirm that. You must contact us within one working day of the auction closing to arrange payment and collection in accordance with these Terms and Conditions. We reserve the right to re-list the Lot(s) if you do not do so and/or we may seek to enforce the Contract.

You are responsible for obtaining all certificates, permits or other authorisations necessary before any machinery you have purchased via auction can be used on any road or elsewhere, and you are responsible for all legal requirements in relation to use and maintenance of the machinery.

## **8. BIDDING ON BEHALF OF ANOTHER**

Unless you have notified us in advance of placing a bid and we have acknowledged in writing that you bid as agent on behalf of another, you will be taken to bid on your own behalf as principal.

If we have previously acknowledged in writing that you will bid on behalf of another, you warrant that you have the authority of that person to make each bid you make.

If you act as agent on behalf another, you will remain liable to us for all obligations and liabilities of that person jointly and severally with that person.

## **9. AGE RESTRICTED PRODUCTS**

Some of the Lots available on our site are age-restricted and must not be purchased by or for individuals below the legally required age to purchase such Lot(s). Any age-restricted goods will be clearly described as such on the relevant Lot page on our site (and the specifications, if relevant). It is an offence to attempt to buy age-restricted goods if you are under the required age or to attempt to purchase any such product on behalf of an underage third party.

By placing a bid on the Lot(s), you confirm that you are of the appropriate age and will be the person to receive and use the specified certification of the Lot(s) so bid on. If you are bidding on a Lot for a third party, you hereby certify that the intended potential buyer is of the appropriate age to receive and use the goods bid on.

We reserve the right not to accept the highest bid of any age-restricted goods where it reasonably believes that a buyer or any intended third-party buyer is below the relevant minimum age.

Proof of age verification will be requested on collection of age restricted goods. Where evidence cannot be provided that the recipient is over the age of 18, or where we are not satisfied that we have been provided with acceptable identification, the age-restricted goods will not be handed over.

We will retain records of due diligence, including all age verification information for six years and will permanently destroy the document at the end of the six-year retention period, unless we are required by law to retain such information for longer than six years.

## **10. PRICES**

The price of the Lots will be the successful bid price, plus the buyer premium as indicated on the specific Lot page on our site, plus any VAT due and any export duties or taxes. Please be aware that the price of the Lot(s) does not cover any transport or insurance costs, and such costs will be at your cost and expense.

We will charge applicable VAT at the current rate as at the date of the auction.

## **11. PAYMENT**

Within one working day of the auction closing, you must contact us by email at [auction@cornthwaitegroup.com](mailto:auction@cornthwaitegroup.com) to arrange payment and, if you have not already done so, provide us with proof of identity (if required).

We will send you an invoice, which will contain our bank details. Payment of the invoice will be due within 1 working day of us sending you the invoice. You must pay invoices in full before collecting the Lot(s). If you do not make payment in full, we have the absolute right to cancel the Contract and you will not be entitled to claim any damages for loss.

You should make payment in full and cleared funds in pound sterling to our account, the details of which will be in the invoice we send you. Please be aware that we do not accept payments in cash.

## **12. COLLECTION**

Within one working day of the auction closing, you must contact us by email at [auction@cornthwaitegroup.com](mailto:auction@cornthwaitegroup.com) to arrange for collection of the Lot(s) from our premises.

You must collect the Lot(s) within 7 working days of the auction closing, provided we have received full and clear payment for the Lot(s).

By arrangement, we may agree to collection at a later date, but this is always subject to receiving payment in full within the required timescales before the Lot(s) are collected. Please be aware we reserve the right to impose a storage charge if you do not collect the Lot within 7 working days of the auction closing and we will let you how much the storage charge will cost per day.

## **13. WE CAN END OUR CONTRACT WITH YOU**

We can end our Contract with you for a Lot and claim any compensation due to us (including enforcement costs) if:

- you don't make any payment to us when it's due and you still don't make payment within 1 working day of our reminding you that payment is due;
- you don't, within a reasonable time of us asking for it, provide us with information, cooperation or access that we need to provide the Lot, for example, proof of identity (if we need it); or

- you don't collect the Lot(s) from us within 7 working days of the auction closing (unless we have agreed to collection at a later date), in which case we will treat the bid as lapsed and relist the Lot(s) for auction, and if you have already paid, we will refund you the full purchase price.

We reserve the right to suspend your account on our site if we end our Contract with you.

#### **14. RETURNS AND CANCELLATION POLICY**

If you are contracting with us as a consumer (rather than as a business), you may cancel a Contract at any time up to 14 calendar days starting on the day after the day on which you collect the Lot(s). Provided you comply with these Terms and Conditions and take reasonable care of the Lots, you will receive a full refund of the price paid for the Lot(s) in accordance with our returns policy (set out in below).

To cancel a Contract, you must inform us by sending an email to [auction@cornthwaitegroup.com](mailto:auction@cornthwaitegroup.com). When emailing us about cancelling a Contract please include details of the Contract to help us identify it, including the invoice number and product description, full name and address. We will contact you to confirm we have received your cancellation.

The Lot(s) must be returned to us at your own risk. You will arrange for the Lot(s) to be returned to us, at an address confirmed by us via email, at your own cost.

You have a legal obligation to take reasonable care of the Lot(s) while they are in your possession. If you fail to comply with this obligation, we may have a right of action against you for compensation. You will be liable for the cost of any reduction in the value of the Lot(s) that was caused due to not taking reasonable care of them. Following the delivery of the Lot(s) to us, we will check that reasonable care has been taken of the Lot(s).

Subject to our being satisfied that reasonable care has been taken of the Lot(s), we will process the refund to you as soon as possible, and, in any case, within 14 days following the day on which we receive the Lot(s) back. In these circumstances, we will refund the price of Lot(s) in full.

If you have cancelled the Contract and the Lot(s) have not been collected, then we will process the refund due to you as soon as possible and, in any case, within 14 days of the day following the day on which you gave us notice of cancellation of the Contract.

#### **15. RISK AND TITLE**

The Lots will be at your risk from the time you load the Lot to a transporter, or the Lots are collected by any driver, even if you have given us notice that you wish to cancel the Contract. You should ensure you have arranged for the appropriate insurance for the Lots from such point in time.

Ownership of the Lots will only pass to you once we have received payment in full (in cleared funds) for the Lots you have purchased.

#### **16. EXPORT CONDITIONS**

HMRC will enforce standard VAT (at the prevailing rate) on all purchases made in the UK until adequate proof of Lots being exported is provided. Adequate proof is detailed from HMRC as below:

- Written order from you which shows their name, address and EC VAT number, EORI No. and the address where the Lots are to be delivered.
- Copy sales invoice showing your name, EC VAT number, EORI No., a description of the Lots and an invoice number.
- Date of departure of Goods from our premises and from the UK.
- Name and address of the haulier collecting the Lots.
- Registration number of the vehicle collecting the Lots and the name and signature of the driver and, where the Lots are to be taken out of the UK by a different haulier or vehicle, the name and address of that haulier, that vehicle registration number and a signature for the Lots.
- Route, for example, Channel Tunnel, port of exit.
- Copy of travel tickets.
- Name of ferry or shipping company and date of sailing or airway number and airport.
- Trailer number (if applicable).
- Full container number (if applicable).
- Name and address for consolidation, groupage, or processing (if applicable).

The above rules are subject to change and therefore it is your responsibility to ensure that they comply with all export requirements. It is not our responsibility to keep the above guidance up to date or accurate. It is provided purely to assist you, but you may not place any reliance upon it and we will have no liability for such guidance.

It is a condition of sale that where Lots are to be exported the buyer must complete, sign and return the CRM provided by us with detailed proof of shipping. We will not be responsible for any delays, costs or problems caused by you not providing the required information.

## **17. HEALTH AND SAFETY**

Although we take reasonable precautions regarding health and safety, you enter our premises at your own risk. Neither we, nor any of our employees or agents are responsible for your safety or your property when visiting our premises, unless you suffer any injury or damage to your property as a result of our, our employees' or our agents' negligence.

## **18. YOUR INFORMATION**

We process information about you in accordance with our privacy policy. By using our site, you consent to such processing. How we use any personal data you give us is set out in our privacy policy [cornthwaitegroup.com/all](http://cornthwaitegroup.com/all)



## 19. OUR LIABILITY

If you are contracting with us as a consumer (rather than a business), we are responsible for losses you suffer caused by us breaching these Terms and Conditions unless the loss is:

- **Unexpected.** It was not obvious that it would happen and nothing you said to us before we accepted your bid meant we should have expected it (so, in the law, the loss was unforeseeable).
- **Avoidable.** Something you could have avoided by taking reasonable action.
- **Caused by a delaying event outside our control.** We are not responsible for delays outside our control as set out in the section *Events outside our control* below.
- **A business loss.** Our liability for any loss you suffer in connection with your trade, business, craft or profession is limited, in accordance with our auction terms and conditions for businesses [cornthwaitegroup.com/all](http://cornthwaitegroup.com/all).

This does not affect your statutory rights. Nothing in these Terms and Conditions excludes any liability for death or personal injury caused by our negligence or any other matter for which it would be illegal for us to exclude or attempt to exclude our liability.

## 20. EVENTS OUTSIDE OUR CONTROL

We will not be liable or responsible for any failure to perform, or delay in performance of, any of our obligations under a Contract that is caused by events outside our reasonable control including Acts of God, fire, flood, severe weather, explosion, war, act of terrorism, pandemic or epidemic, industrial dispute failure or delay on the part of a sub-contractor or supplier or acts of local or central Government or other competent authorities. This does not affect your statutory rights.

## 21. SEVERABILITY

If any of these Terms and Conditions is held to be invalid, the remaining Terms and Conditions shall continue to be valid to the fullest extent permitted by law.

## 22. ENTIRE AGREEMENT

These Terms and Conditions and other notices elsewhere on our website contain the whole agreement between us and you relating to the supply of Lots. No other terms or conditions will form part of the Contract, unless agreed by us in writing and signed by an authorised Cornthwaite Agricultural Limited employee.

## 23. OUR RIGHT TO VARY THESE TERMS AND CONDITIONS

We have the right to revise and amend these Terms and Conditions from time to time. You will be subject to the Terms and Conditions in force at the time you register your interest for an auction or as we otherwise notify to you, therefore we recommend that you check these Terms and Conditions each time you register your interest for an auction.

You will be subject to the policies and Terms and Conditions in force at the time that you bid on or purchase Lots from us, unless any change to those policies or these Terms and Conditions is required to be made by law or governmental authority, or if we notify you of the change to those policies or these Terms and Conditions before we send you confirmation of your bid being successful (in which case we

have the right to assume that you have accepted the change to the Terms and Conditions, unless you notify us to the contrary within seven working days of collection by you of the Lots).

#### **24. WRITTEN COMMUNICATIONS**

Applicable laws require that some of the information or communications we send to you should be in writing. When using our site, you accept that communication with us will be mainly electronic. We will contact you by e-mail or provide you with information by posting notices on our website. For contractual purposes, you agree to this electronic means of communication and you acknowledge that all contracts, notices, information and other communications that we provide to you electronically comply with any legal requirement that such communications be in writing. This condition does not affect your statutory rights.

#### **25. NOTICES**

All notices given by you to us must be given to Cornthwaite Agricultural Limited at Hall Lane, Bispham Green, Ormskirk, L40 3SB or by sending an email to [auction@cornthwaitegroup.com](mailto:auction@cornthwaitegroup.com). We may give notice to you at either the e-mail or postal address you provide to us when you register as a user on our site or such other address as you provide us with. Notice will be deemed received and properly served immediately when posted on our website, 24 hours after an e-mail is sent, or three days after the date of posting of any letter. In proving the service of any notice, it will be sufficient to prove, in the case of a letter, that such letter was properly addressed, stamped and placed in the post and, in the case of an e-mail, that such e-mail was sent to the specified e-mail address of the addressee.

#### **26. TRANSFER OF RIGHTS AND OBLIGATIONS**

The Contract between you and us is binding on you and us and on our respective successors and assignees.

You may not transfer, assign, charge or otherwise dispose of a Contract, or any of your rights or obligations arising under it, without our prior written consent.

We may transfer, assign, charge, sub-contract or otherwise dispose of a Contract, or any of our rights or obligations arising under it, at any time during the term of the Contract.

#### **27. LAW AND JURISDICTION**

These Terms and Conditions and Contracts for the purchase of Lots through our site are governed by English law. Any dispute arising from, or related to, the Terms and Conditions or such Contracts shall be subject to the non-exclusive jurisdiction of the courts of England and Wales. If you wish to bring a claim in relation to this contract, you are able to bring a claim against us in the English courts, wherever you live. If you live in Wales, Scotland, Northern Ireland, or the Republic of Ireland you can also bring claims against us in the courts of the country you live in. We can claim against you in the courts of the country you live in.

#### **28. CONTENT USAGE**

We have the right to utilise content submitted through our accounts with third party content platforms across our marketing and retail channels.

#### **29. COMPLAINTS**

Our customer service team: [auction@cornthwaitegroup.com](mailto:auction@cornthwaitegroup.com) or [feedback@cornthwaitegroup.com](mailto:feedback@cornthwaitegroup.com) will do their best to resolve any problems you have with us or our products.



## Cornthwaite Group: Online Auction Terms and Conditions (Businesses)

**Registered Office:** Cornthwaite Agricultural Ltd, Hall Lane, Bispham Green, Ormskirk, L40 3SB  
**Company Number:** 06236827

**These terms and conditions (“Terms”) apply to contracts between Cornthwaite Group and users of the machinery auction website that are businesses. Please read the Terms carefully before you register and place a bid with us, they contain exclusions and limitations of our liability under any such contract. If you think there is a mistake, please contact us to discuss.**

**The user’s attention is particularly drawn to the provisions of clause 6 below (limitation of liability).**

### 1. INTERPRETATION

#### 1.1 Definitions:

**"Account"** means an account granted to a User by the Auctioneer which will allow such User to bid for/purchase the Lot(s) once they have completed the registration process in accordance with these Terms;

**"Agreement"** means the agreement of which these Terms form part of;

**"Auction"** means any online auction conducted on this Website pursuant to these terms and conditions;

**"Auctioneer"** means Cornthwaite Agricultural Ltd, trading as Cornthwaite Group (Company Number 06236827) whose registered office is situate Hall Lane, Bispham Green, Ormskirk, Lancashire, L40 3SB.

**"Auction Machine(s)"** means a machine and/or equipment listed for sale by Auction on the Website;

**"Bid"** means a price offered for the Lot(s) which if accepted by the Auctioneer shall be legally binding upon the Buyer as the price payable for the Lot(s).

**"Bidder"** means a User who offers to purchase the Lot(s) by bidding at Auction on this Website whether on his/her own account or as an agent.

**"Business Day"** means a day other than a Saturday or Sunday or public holiday in England when the banks in London are open for business.

**"Business Hours"** means the period from 8.00 am to 5.30 pm on any Business Day.

**"Buyer"** means a successful Bidder acknowledged by the Auctioneer at the end of the Auction.

**"Buyer Premium"** means a service charge paid by the Buyer to the Auctioneer as set out in the specific Lot page on this Website.

**"Contract"** means the agreement reached after a Bid is accepted.

**"Force Majeure Event"** means any circumstance beyond the control of the Auctioneer including, but not limited to acts of God, pandemic or epidemic, fire, explosion, adverse weather conditions, flood, earthquake, terrorism, riot, civil commotion, war, hostilities, strikes, work stoppages, slow-downs or other industrial disputes, accidents, riots or civil disturbances, acts of government, government or local authority curfews or lockdowns, lack of power and delays by suppliers or materials shortages.

**"Invoices"** means the invoice presented to the Buyer following a successful Bid;

**"Loss"** means loss of profit, loss of opportunity, loss of goodwill or reputation, loss of anticipated savings, loss of revenue, and any indirect or consequential loss (whether in tort, contract, negligence or breach of duty howsoever arising);

**"Lot(s)"** means the Auction Machine(s) and/or any other goods listed for sale by Auction on the Website from time to time.

**"Reserve"** Means the minimum price acceptable to the Auctioneer for the Lot(s) to be eligible for sale;

**"User"** means any person or legal entity using the Website and where the context requires, prior to their approval by the Auctioneer as a Buyer.

**"Website"** means the Auctioneer's auction website available at [www.cornthwaitegroup.com](http://www.cornthwaitegroup.com).

1.2 In these Terms, the words **"you"**, **"yours"**, etc. refer to you as the User/Bidder/Buyer. The words **"we"**, **"us"**, **"our"** etc. refer to the Auctioneer.

1.3 Any reference to a 'clause' is to a clause of these Terms unless stated otherwise.

## **2. STATUS OF A USER/BIDDER/BUYER**

2.1 These Terms apply to businesses. You are a business customer if you are bidding on and/or purchasing Lot(s) wholly or mainly for use in connection with your trade, business, craft or profession or on behalf of a business. Even if you are an individual bidding on and/or purchasing Lot(s), we consider you a business customer if you represent a business.

2.2 If you are an individual and are bidding on and/or purchasing Lot(s) wholly or mainly for your personal use (not for use in connection with your trade, business, craft or profession), the Auctioneer's terms and conditions for consumers [CORNTHWAITEGROUP.COM/ALL](http://CORNTHWAITEGROUP.COM/ALL) will apply to you instead.

## **3. REGISTRATION**

3.1 A User wishing to bid on Auction Machines through the Website must first register for an Account and provide all relevant information as may be required by the Auctioneer from time to time.

3.2 On registration the User acknowledges that only adults aged 18 years and over are entitled to enter into a legally binding contract and as a result they are the only people entitled to register for an account and participate in an Auction. By registering the User warrants that he/she is aged 18 years or older and is capable of forming a legally binding contract.

3.3 The Auctioneer shall in its sole and absolute discretion decide whether it shall approve a User's registration application or decline such registration. The Auctioneer is under no obligation to accept a User's registration or provide a reason for declining any registration.

3.4 Before the commencement of an Auction or whilst the Auction is live, a User shall register as a Bidder. If a User fails to register as a Bidder for a specific Auction, he/she/it shall not be able to participate in said Auction.

3.5 The Auctioneer reserves the right to remove, close, disallow or block access to any Account and/or the Website if:

3.5.1 the User or Buyer breaches these Terms or any terms of use of the Website;

3.5.2 the Buyer fails to complete on any purchase of the Lot(s) after a Bid has been accepted by the Auctioneer.

3.6 You agree to notify the Auctioneer immediately if any of your registration details change by sending an email to [auction@cornthwaitegroup.com](mailto:auction@cornthwaitegroup.com).

3.7 At the point of registration, you will be asked to create a password.

3.8 You shall:

3.8.1 be responsible for the use and security of your username and password and for ensuring full compliance with these Terms;

3.8.2 keep your password confidential and you must notify us immediately if you suspect unauthorised use by a third party;

3.8.3 not share any passwords or log in details;

3.8.4 not allow third parties to access the Website for any purposes whatsoever;

3.8.5 not attempt to transfer any Account to any other person or entity. Any User that attempts to do so shall be in breach of these Terms and will have their access suspended, blocked or removed.

3.9 By registering for an Account, you acknowledge our website terms of use (<https://www.cornthwaitegroup.com/website-terms-of-use>).

3.10 In the event of a security breach, you will be given the ability to change your username and password which you must do immediately.

3.11 The Auctioneer will not be responsible for any losses suffered from a security breach which has been caused by a User/Bidder/Buyer.

#### **4. LIMITED WARRANTIES AND ACKNOWLEDGEMENT BY THE USERS**

4.1 The Auctioneer warrants that:

4.1.1 it has good title to the Lot(s) listed for sale on the Website;

4.1.2 its Website listings/descriptions for Auction Machines are accurate from the information provided or available to the Auctioneer;

- 4.1.3 all Auction Machines are free of any encumbrances, security, financial incumbents, reservations of title or any other lien.
- 4.2 Save for the above warranties, the Auctioneer offers no further representations or warranties in relation the Lot(s).
- 4.3 The Buyer agrees and acknowledges that:
- 4.3.1 the sale is a sale by auction;
- 4.3.2 the Auction Machine(s) are intended for use only in the UK. The Auctioneer does not warrant that the Goods comply with the laws, regulations or standards outside the UK;
- 4.3.3 unless otherwise stated, all Auction Machines are not new and are second hand or previously owned;
- 4.3.4 unless otherwise stated, all Auction Machines have not been repaired, serviced or inspected;
- 4.3.5 all Auction Machines are "sold as seen" with any faults and imperfections and errors of description and accordingly the Auctioneer gives no warranty that any Auction Machine:
- 4.3.5.1 is fit for purpose;
- 4.3.5.2 in working order;
- 4.3.5.3 is fault or defect free; or
- 4.3.5.4 has been maintained or serviced.
- 4.3.6 Users should satisfy themselves prior to bidding as to the origin, description, suitability, age, durability, completeness, operability, state and condition of the Auction Machine(s).
- 4.3.7 Users are entitled, subject to prior agreement with the Auctioneer, to inspect the Lot(s) before the Auction ends. The depot in which each Lot is stored can be found on the specific Lot page on the Website;
- 4.3.8 Bidders should exercise and rely on their own judgment as to whether the Auction Machine(s) is fit for the purpose required by the Bidders.
- 4.4 All warranties or representations implied or imposed by trade, custom, practice, statute, legislation or common law are excluded to the fullest extent permitted by law. You further acknowledge that you have not relied upon any representation or warranty made to you by the Auctioneer, its employees or agents in relation to the Lot(s) unless such representation or warranty has been confirmed in writing prior to auction.

## **5. AGE RESTRICTED GOODS AND DUE DILIGENCE**

- 5.1 Some of the Lots available on the Website are age-restricted and must not be purchased by or for individuals below the legally required age to purchase such Lot(s). Any age-restricted goods will be clearly described as such on the relevant Lot page on the Website (and the specifications, if relevant). It is an offence to attempt to buy age-restricted goods if the Bidder is under the required age or to attempt to purchase any such product on behalf of an underage third party.
- 5.2 By placing a bid on the Lot(s), the Bidder confirms that they are of the appropriate age and will be the person to receive and use the specified certification of the Lot(s) so bid on. Any Bidder bidding on a Lot for a third party hereby certifies that the intended potential buyer is of the appropriate age to receive and use the goods bid on.
- 5.3 The Auctioneer reserves the right not to accept the highest Bid of any age-restricted goods where it reasonably believes that a Buyer or any intended third party buyer is below the relevant minimum age.
- 5.4 Proof of age verification will be requested on collection of age restricted goods. Where evidence cannot be provided that the recipient is over the age of 18, or where the Auctioneer is not satisfied that they have been provided with acceptable identification, the age-restricted goods will not be handed over.
- 5.5 The Auctioneer shall retain records of due diligence, including all age verification information for six years and shall permanently destroy the document at the end of the six-year retention period, unless the Auctioneer is required by law to retain such information for longer than six years.

## **6. LIMITATION OF LIABILITY**

- 6.1 The Auctioneer has obtained insurance cover in respect of its own legal liability for individual claims not exceeding £10 million per claim. The limits and exclusions in this clause reflect the insurance cover the Auctioneer has been able to arrange and the User/Bidder/Buyer is responsible for making its own arrangements for the insurance of any excess loss.
- 6.2 References to liability in this clause 6 include every kind of liability arising under or in connection with the Agreement including but not limited to liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.
- 6.3 Nothing in the Contract limits any liability which cannot legally be limited, including liability for:
- 6.3.1 death or personal injury caused by negligence;
  - 6.3.2 fraud or fraudulent misrepresentation;
  - 6.3.3 breach of the terms implied by section 12 of the Sale of Goods Act 1979;
  - 6.3.4 any liability that legally cannot be limited.



6.4 Subject to clause 6.3, the Auctioneer's total liability to the Buyer shall not exceed the total purchase price paid by the Buyer to the Auctioneer for any Lot.

6.5 Subject to clause 6.3, the following types of loss are wholly excluded:

6.5.1 loss of profits.

6.5.2 loss of sales or business.

6.5.3 loss of agreements or contracts.

6.5.4 loss of anticipated savings.

6.5.5 loss of use or corruption of software, data or information.

6.5.6 loss of or damage to goodwill; and

6.5.7 indirect or consequential loss.

6.6 This clause 6 shall survive termination of the Contract.

## **7. BIDDING ON BEHALF OF ANOTHER**

7.1 Unless the Auctioneer has previously acknowledged in writing that the Bidder bids as agent on behalf of a named principal, every Bidder shall be taken to bid on his own behalf as principal.

7.2 If the Auctioneer has previously acknowledged in writing that the Bidder bids as agent on behalf of a named principal, the Bidder warrants that he has the authority of his principal to make each bid he makes.

7.3 Any Bidder acting as agent on behalf of a named principal shall remain liable to the Auctioneer for all obligations and liabilities of his principal jointly and severally with the principal. The Bidder warrants that he has the authority of his principal to make each Bid made.

## **8. BIDDING PROCESS AND AGREEMENT FORMATION**

8.1 YOUR BID IS BINDING. IF YOU DON'T INTEND TO BE BOUND BY YOUR BID, PLEASE DO NOT PLACE A BID. IF ACCEPTED, YOUR BID WILL FORM THE BASIS OF A BINDING AGREEMENT WITH THE AUCTIONEER WHICH WILL CONTAIN THESE TERMS WITHIN IT.

8.2 A Bidder is granted access to the Website by the Auctioneer to place Bids on Lot(s) listed for sale by auction.

8.3 Full instructions on how to place a Bid and details of the expiry date and time for each Auction will be posted on the Website but all bids and transactions will be subject to these Terms.

8.4 A listing does not constitute an offer, and any listing may be withdrawn at any time with immediate effect.

8.5 Once a Bidder has placed a Bid on the Lot(s), the Bidder acknowledges that the Bid may not be withdrawn and if successful is a legally binding commitment to purchase the Lot(s).

- 8.6 Where a Reserve is specified for a Lot(s), the Auctioneer will not accept a Bid that is lower than such Reserve. Any Bid accepted lower than a Reserve may be due to a technical fault and shall be invalid. The Auctioneer shall not be deemed to have accepted a Bid which is lower than a Reserve on the basis of error and mistake.
- 8.7 Where a Bid is accepted that is shown to be a technical error or would be reasonably obvious that it was an error (by way of example, a Lot listed at £200,000 has a Bid accepted at £20), that Bid shall be null and void and not binding on the parties.
- 8.8 Where a Reserve has not been met or exceeded, no sale shall be completed, although the Auctioneer may at its discretion approach a Buyer directly and invite offers.
- 8.9 To be the winning Bid, the Bidder's Bid must be the highest Bid before the Auction closes and must meet any other conditions which may be specific to each Lot. If additional conditions apply, they will be published alongside the description of the Lot prior to the commencement of each Auction.
- 8.10 The time that any Auction closes with respect to the Lot(s) will be specified.
- 8.11 If the Bidder's Bid is the highest when the Auction closes (and meets any other conditions), the Bidder's Bid is deemed accepted by the Auctioneer, an Agreement will come into force and the Buyer will be committed to purchase the Lot(s) in accordance with these Terms and the Agreement and at the value of the Bid.
- 8.12 The Auctioneer reserves the right to refuse or remove Bids and/or suspend, cancel or extend auctions at its absolute discretion, including where there are or have been obvious typographical or arithmetical inaccuracies or technical issues.
- 8.13 Successful Bids will be confirmed to the Buyer by the Auctioneer via email.
- 8.14 The Buyer must contact the Auctioneer within one Business Day of the Auction closing to arrange payment and collection in accordance with clauses 10 and 11. The Auctioneer reserves the right to re-list the Lot(s) where a Buyer does not do so and/or seek enforcement of the Agreement.
- 8.15 The Buyer is responsible for obtaining all certificates, permits or other authorisations necessary before the Auction Machine can be used on any road or elsewhere, and is responsible for all legal requirements in relation to use and maintenance of the Auction Machine.

## **9. AUCTION CONDUCT**

- 9.1 Before the Auction commences, Bidders accept that the Auction is conducted online and the Auctioneer acknowledges that no Loss can be claimed if the Website fails or if the Bidder loses internet connection howsoever caused.
- 9.2 These terms are binding on the Users from the date the User completes the Account registration.

9.3 The Buyer may be required to provide valid photo identification (current passport or driving licence). The Auctioneer may refuse to accept a Bid if the Buyer fails to show identification when requested.

9.4 The Auctioneer may in its absolute discretion and without providing a reason:

9.4.1 limit or restrict who can place a bid;

9.4.2 refuse to admit any person to the bidding process;

9.4.3 update the description of the Lots at any time;

9.4.4 remove Lots from the Auction and sell by private treaty;

9.4.5 refuse to accept/or may reject a Bid at any time prior to the formation of the Contract;

9.4.6 set a reserve price for the Lot(s).

9.5 Invoices must be paid in full prior to collection of the Lot(s). In the event that payment is not made in full, the Auctioneer has the absolute right to cancel the Contract and the Buyer is not entitled to claim damages for Loss.

## **10. PRICE AND PAYMENT**

10.1 In accordance with this clause 10, the Buyer will pay:

10.1.1 the Bid price;

10.1.2 the Buyer Premium as indicated on the specific Lot page on the Website;

10.1.3 any VAT due; and

10.1.4 any export duties or taxes.

10.2 The Buyer shall be liable for the payment of any applicable VAT and Buyer Premium due for a Lot.

10.3 The price of the Lot(s) does not cover any transport or insurance costs. All such costs shall be at the Buyer's cost and expense.

10.4 The Auctioneer will charge applicable VAT at the current rate at the date of the Auction.

10.5 Within one Business Day of the Auction closing, the Buyer must:

10.5.1 make contact with the Auctioneer at [auctions@cornthwaitegroup.com](mailto:auctions@cornthwaitegroup.com) to arrange payment; and

10.5.2 if not already provided to the Auctioneer's satisfaction, provide proof of identity (if required).

10.6 Payment of the invoice shall be due within one Business Day of the Auctioneer providing the invoice to the Buyer. The time for payment shall be of the essence of the Contract.

10.7 Payment shall be made in full and in cleared funds in pound sterling to the Auctioneer's bank account, the details of which shall be contained in the invoice provided to the Buyer by the Auctioneer.

10.8 Where payment is overdue, the Auctioneer shall be entitled to:

10.8.1 treat the Bid as having lapsed and relist the Lot(s); and/or

10.8.2 suspend the Account of the Buyer; and/or

10.8.3 charge interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause 10.8.3 will accrue each day at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%; and/or

10.8.4 enforce the terms of the Agreement and seek all legal costs for doing so from the Buyer; and/or;

10.8.5 if relisted, charge the Buyer a relisting charge of 1% of the Buyer's Bid price per week for each week that it takes to re-sell the Lot, up to a maximum of 10%, to reflect the fact that:

10.8.5.1 the Buyer has not abided by these Terms;

10.8.5.2 the Buyer has deprived another legitimate buyer from purchasing the Lot(s);

10.8.5.3 the Auctioneer could have sold Lot(s) to another buyer and therefore the Buyer's default has caused a lost sale; and

10.8.5.4 the Auctioneer has had to incur additional costs to remarket and resell the Lot.

10.9 The parties agree that the charge in clause 10.8.5 reflects a genuine pre-estimate of the losses suffered by the Auctioneer if the Buyer defaults on payment and the Buyer has to relist the Auction Machine.

10.10 The Buyer shall have no right of set-off and all payments must be made in full without any deduction or set-off.

10.11 The Auctioneer does not accept payments in cash.

## **11. COLLECTION**

11.1 Within one Business Day of the Auction closing, the Buyer must contact the Auctioneer at [auktion@cornthwaitegroup.com](mailto:auktion@cornthwaitegroup.com) to arrange collection of the Lot(s) from the Auctioneer's premises.

11.2 Collection of the Lot(s) shall be made within 7 Business Days of the Auction closing, provided that the Auctioneer has received full and clear payment for the Lot(s) in accordance with clause 10.

11.3 By arrangement, the Auctioneer may agree to collection at a later date, but subject always to payment in full within the required timescales as set out in clause 10 before the Lot(s) is/are is collected. The Auctioneer reserves the right to impose a storage charge to do so.

## **12. HEALTH AND SAFETY**

12.1 Although the Auctioneer takes reasonable precautions regarding health and safety, the User/Buyer enters the Auctioneer's premises at its own risk. Neither the Auctioneer nor any of its employees or agents are responsible for the safety of the User/Buyer or its property when visiting the Auctioneer's premises, unless the User/Buyer suffers any injury or damage to its property as a result of the Auctioneer's, its employees' or its agents' negligence.

## **13. TITLE AND RISK**

13.1 The risk in the Lot(s) shall pass to the Buyer upon loading the Auction Machine to a transporter or the Lot is collected by any driver. The Buyer shall ensure that it has arranged for the appropriate insurance from such point in time.

13.2 Title to the Lot(s) shall not pass to the Buyer until the Auctioneer receives payment in full (in cleared funds) for the Lot(s) that the Buyer has purchased in respect of which payment has become due.

## **14. EXPORT CONDITIONS**

14.1 HMRC will enforce standard VAT (at the prevailing rate) on all purchases made in the UK until adequate proof of Goods being exported is provided. Adequate proof is detailed from HMRC as below:

14.1.1 Written order from your customer which shows their name, address and EC VAT number, EORI No. and the address where the Goods are to be delivered.

14.1.2 Copy sales invoice showing customer's name, EC VAT number, EORI No., a description of the Goods and an invoice number.

14.1.3 Date of departure of Goods from our premises and from the UK.

14.1.4 Name and address of the haulier collecting the Goods.

14.1.5 Registration number of the vehicle collecting the Goods and the name and signature of the driver and, where the Goods are to be taken out of the UK by a different haulier or vehicle, the name and address of that haulier, that vehicle registration number and a signature for the Goods.

14.1.6 Route, for example, Channel Tunnel, port of exit.

14.1.7 Copy of travel tickets.

14.1.8 Name of ferry or shipping company and date of sailing or airway number and airport.

14.1.9 Trailer number (if applicable).

14.1.10 Full container number (if applicable).

14.1.11 Name and address for consolidation, groupage, or processing (if applicable).

14.2 The above rules are subject to change and therefore it is the responsibility of the Buyer to ensure that they comply with all export requirements. It is not the responsibility of the Auctioneer to keep the above guidance up to date or accurate. It is provided purely to assist Buyers, but Buyer may not place any reliance upon it and the Auctioneer shall have no liability for such guidance.

14.3 It is a condition of sale that where Goods are to be exported the Buyer must complete, sign and return the CRM provided by the Auctioneer with detailed Proof of Shipping. The Auctioneer shall not be responsible for any delays or problems caused by the Buyer not providing the required information.

## **15. STATUS OF THESE TERMS**

15.1 The Auctioneer may at its absolute discretion modify these Terms from time to time. The Auctioneer is under no obligation to notify you of changes to these Terms but will post the updated terms (which may be a URL link to the updated terms) on the Website.

15.2 You agree to be bound by the new Terms from the date they are posted on the Website and your continued use of the Website shall be deemed acceptance of the changes.

15.3 It is the User's responsibility to ensure that they understand all Terms as these will form part of the Agreement between the Auctioneer and the User. Accordingly, please continue to review these Terms whenever accessing or using the Website and in particular prior to submitting Bids through the Website's auction facility. These Terms apply to all parts of the Website to which you may have access from time to time.

## **16. DATA AND PRIVACY**

16.1 The Auctioneer shall comply with all applicable data protection legislation and shall only process personal data in accordance with the Act and the Auctioneer's privacy policy (as may be updated and amended from time to time).

16.2 The Auctioneer's current privacy policy can be viewed here: [cornthwaitegroup.com/all](http://cornthwaitegroup.com/all).

## 17. NO ASSIGNMENT

17.1 You may not assign your rights or delegate your duties under these Terms unless agreed with the Auctioneer in advance.

17.2 Any attempt to assign your duties shall give us the right to treat such assignment as a breach of contract and seek remedies against you.

## 18. RELATIONSHIP

18.1 No agency, partnership, joint venture or employee/employer relationship is intended or created by these Terms between the parties.

18.2 The Auctioneer is the seller and the Buyer is a Buyer.

## 19. NOTICES

19.1 Any notice given to a party under or in connection with the Terms shall be in writing and shall be:

19.1.1 delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or

19.1.2 sent by email to the following addresses (or an address substituted in writing by the party to be served):

19.1.2.1 **The Auctioneer:** auction@cornthwaitegroup.com.

19.1.2.2 **User/Bidder/Buyer:** the email address provided on the registration form or such other address as is provided by You to the Auctioneer.

19.2 Any notice shall be deemed to have been received:

19.2.1 if delivered by hand, at the time the notice is left at the proper address;

19.2.2 if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; or

19.2.3 if sent by email, at the time of transmission, or, if this time falls outside Business Hours in the place of receipt, when Business Hours resume.

19.3 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

## **20. WAIVER**

20.1 If the Auctioneer does not insist that you perform any of your obligations under the Agreement, or if the Auctioneer does not exercise its rights or remedies against you, or if the Auctioneer delays in doing so, that will not mean that the Auctioneer have waived its rights or remedies against you or that you do not have to comply with those obligations.

20.2 If the Auctioneer does waive any rights or remedies, it will only do so in writing, and that will not mean that the Auctioneer will automatically waive any right or remedy related to any later default by you.

## **21. SEVERANCE**

1.1 If any provision or part-provision of these Terms is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of the Terms. If any provision of the Terms is deemed deleted under this clause, the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

## **22. FORCE MAJEURE**

22.1 The Auctioneer shall have no liability for any delay or failure to carry out any of the Auctioneer's obligations under these Terms where a Force Majeure Event has occurred.

22.2 Non-payment is not a Force Majeure Event regardless of the reason for non-payment.

## **23. THIRD PARTY RIGHTS**

23.1 A person who is not party to these Terms shall have no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any part of these Terms.

23.2 This does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act.

## **24. ENTIRE AGREEMENT**

24.1 These Terms, together with the documents referred to in it, constitutes the entire agreement and understanding between the parties in respect of the matters dealt with in them and supersedes any previous agreement between the parties or any of them relating to such matters.

24.2 You acknowledge that by agreeing to these Terms, and any of the documents referred to in it, that you do not rely on, and shall have no remedy in respect of, any statement, representation, warranty or understanding (whether negligently or innocently made) other than as expressly set out in these Terms as a warranty. The only remedy available to either party in respect of any such statement, representation, warranty or understanding shall be for breach of contract.



## **25. GOVERNING LAW AND JURISDICTION**

25.1 The Terms, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by and construed in accordance with the law of England and Wales.

25.2 Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Terms or its subject matter or formation.

## **26. COMPLAINTS**

26.1 The Auctioneer's customer service team: [auction@cornthwaitegroup.com](mailto:auction@cornthwaitegroup.com) or [feedback@cornthwaitegroup.com](mailto:feedback@cornthwaitegroup.com) will do their best to resolve any problems you have with us or our products.