

**GORDON BROTHERS INTERNATIONAL LLC**  
**(TRADING AS GORDON BROTHERS)**

---

**TERMS AND CONDITIONS OF SALE**  
**BY AUCTION AND PRIVATE TREATY**

---

**1. INTRODUCTION**

- 1.1 Gordon Brothers is the trading name of Gordon Brothers International LLC (**Agent**), a Limited Liability Company incorporated under the laws of the State of Delaware, USA, and registered in England as a foreign company under number FC022279. The Company's registered office is at Prudential Tower, 800 Boylston Street, 27<sup>th</sup> Floor, Boston, MA 02199, USA, and its principal place of business in the UK is at 3rd Floor, 13 Hanover Square, London W1S 1HN.
- 1.2 These are the terms and conditions (**Terms**) under which the Agent, acting in its capacity as agent for the seller (**Seller**), sells equipment, plant, machinery and other goods (**Goods**) by auction and private treaty to a buyer (**Buyer**).
- 1.3 Any contract of sale is made directly between the Seller and the Buyer and the Agent shall have no responsibility for the actions or omissions of the Seller, the Buyer or any other party.
- 1.4 It is recommended that Buyers review these Terms carefully as they will, together with any special conditions notified to the Buyer, govern the relationship between the Agent, the Seller and the Buyer.
- 1.5 The Buyer's attention is particularly drawn to clause 10, which sets out the Buyer's liability to the Agent and the Seller, and to clause 13 in relation to consumers (as defined in clause 10.1) and clause 14 in relation to non-consumers, which set out the extent of the Agent's and the Seller's liability to the Buyer.

**2. FORMATION OF CONTRACT FOR SALE BY PRIVATE TREATY**

- 2.1 If the Agent indicates that it is prepared to sell Goods by private treaty, such indication shall constitute an invitation to treat and not an offer to sell.
- 2.2 When the Buyer makes an offer to the Agent to purchase the Goods by private treaty, such offer shall be deemed to be made on these Terms and subject to any special conditions contained in the particulars of sale (**Sale Particulars**) or otherwise notified by the Agent to the Buyer in writing prior to the Buyer's offer being made or proposed in writing by the Buyer to the Agent as part of the offer.
- 2.3 The Agent may accept an offer verbally or in writing, at its option, at which point a contract shall come into existence between the Seller and the Buyer on these Terms and subject to any special conditions contained in the Sale Particulars.
- 2.4 The Buyer shall have no right to cancel a contract formed under this clause 2 except as permitted by the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 (**Consumer Contracts Regulations**), which shall apply if the Buyer is a consumer (as defined in clause 10.1) and the contract is a 'distance contract' or an 'off-premises contract', as defined in Regulation 5 of the Consumer Contracts Regulations. More information

about a consumer's right to cancel the contract under the Consumer Contracts Regulations, as well as the procedure for cancelling the contract and the consequences of doing so, are set out in clause 10. Advice about the legal rights of consumers is available from the Buyer's local Citizens' Advice Bureau or Trading Standards office.

### 3. **FORMATION OF CONTRACT FOR SALE BY AUCTION**

- 3.1 If the Agent indicates that it is prepared to sell Goods by auction, such indication shall constitute an invitation to treat and not an offer to sell.
- 3.2 By submitting a bid for the Goods (**Bid**), the Buyer makes an offer to the Agent to purchase the Goods on these Terms and subject to any special conditions contained in the auction particulars (**Auction Particulars**).
- 3.3 The Buyer shall be the highest bidder at or above any reserve or upset price at the conclusion of the auction, at which point a contract for the sale and purchase of the Goods on these Terms and subject to any special conditions contained in the Auction Particulars shall come into existence between the Seller and the Buyer, subject to the Agent's right to reject Bids and to alter or withdraw Goods from auction under clause 5.
- 3.4 If any reserve or upset price is not met in a sale by auction, the Agent shall be entitled in its absolute discretion to accept any Bid received which is below the reserve price, in which case the Buyer shall be the person who has submitted that Bid.
- 3.5 The Buyer shall have no right to cancel a contract formed under this clause 3 except where the Buyer is a consumer (as defined in clause 10.1), in which case the Buyer shall be entitled to cancel the contract in accordance with its rights under the Consumer Contracts Regulations. More information about a consumer's right to cancel the contract under the Consumer Contracts Regulations, as well as the procedure for cancelling the contract and the consequences of doing so, are set out in clause 10. Advice about the legal rights of consumers is available from the Buyer's local Citizens' Advice Bureau or Trading Standards office.

### 4. **THE GOODS**

- 4.1 The Buyer is solely responsible for inspecting and investigating the Goods prior to a sale by auction or private treaty and for satisfying itself on all matters relating to the Goods including as to the description of the Goods and their merchantability, quality, condition and fitness for purpose. This clause 4.1 shall not apply to a Buyer who is a consumer (as defined in clause 10.1).
- 4.2 The Agent, the Seller and their employees, representatives, agents and subcontractors give no representation or warranty as to the description of the Goods or their merchantability, quality, condition or fitness for purpose. This clause 4.2 shall not apply to a Buyer who is a consumer (as defined in clause 10.1).
- 4.3 Any illustrations, photographs and other images of Goods contained in Sale Particulars and Auction Particulars, or otherwise, shall be for identification purposes only and shall not be indicative of the accuracy of the description of the Goods or their merchantability, quality, condition or fitness for purpose.
- 4.4 Any descriptions in Sale Particulars, Auction Particulars or elsewhere (whether given verbally or in writing) shall be statements of opinion only. All Goods shall be sold subject to any faults, defects and imperfections which may subsist at the time of the sale.
- 4.5 No Goods shall be sold as new for the purposes of the Consumer Protection Act 1987 and any other product liability legislation.

### 5. **AGENT'S CONDUCT OF SALE**

- 5.1 The Agent shall be entitled to conduct a sale of Goods by any method the Seller and the Agent consider appropriate and to impose such special conditions as the Seller and the Agent see fit in the circumstances.
- 5.2 The Agent may in its absolute discretion refuse to admit any person to the premises where the Goods are displayed for inspection (**Premises**).

- 5.3 The Agent may in its absolute discretion update or amend the Sale Particulars and the Auction Particulars for any reason at any time prior to the formation of a contract under clause 2 or clause 3.
- 5.4 The Agent may in its absolute discretion alter or withdraw Goods from sale by private treaty or auction at any time prior to the formation of a contract under clause 2 or clause 3.
- 5.5 The Agent may in its absolute discretion reject a Bid in a sale by auction at any time prior to the formation of a contract under clause 3.
- 5.6 The Agent may set a reserve or upset price in respect of Goods for sale by auction and reserves the right to submit Bids for Goods on behalf of a third party.
- 5.7 In the event of a dispute arising between any persons concerning the sale of Goods by auction or private treaty, such dispute shall be determined solely by the Agent in its absolute discretion. The Agent's decision shall be final and binding and the Agent shall be under no obligation to enter into further discussion or correspondence concerning such dispute.

## 6. **PRICE AND PAYMENT**

- 6.1 The price payable by the Buyer for Goods sold by private treaty shall be the price offered by the Buyer and accepted by the Agent in accordance with clause 2, plus any buyer's premium and/or resale royalty (if applicable) specified in the Sale Particulars, plus value added tax (if applicable) and any other relevant sales taxes payable thereon, in each case at the prevailing rate.
- 6.2 The price payable by the Buyer for Goods sold by auction shall be the amount of the Bid, plus any buyer's premium (and/or resale royalty (if applicable) specified in the Auction Particulars, plus value added tax (if applicable) and any other relevant sales taxes payable thereon, in each case, at the prevailing rate.
- 6.3 The Agent shall invoice the Buyer for the Goods following completion of the sale. The Buyer shall pay for the Goods in cleared funds in the currency specified in the invoice prior to the collection or removal of the Goods and in any case within 14 days of the date of the invoice. Time for payment shall be of the essence of the contract.
- 6.4 The Agent reserves the right to refuse payment in cash and shall in no circumstances accept any payment in cash of more than £9,000.

## 7. **TITLE AND RISK**

- 7.1 The Agent is acting as the agent of the Seller only and gives no warranty as to the Seller's title to the Goods.
- 7.2 Legal and equitable title to the Goods shall pass to the Buyer only once the Agent has received full payment in cleared funds of all sums due to the Agent and the Buyer has removed the Goods from the Premises in accordance with clause 8 and clause 9, provided that no Goods shall be released to the Buyer until payment in full has been received.
- 7.3 Title to any intellectual property rights which may subsist in the Goods shall not transfer to the Buyer. Any use by the Buyer of the Goods (including without limitation computer software) shall be subject to the terms of any existing licence or other intellectual property rights in and to such Goods.
- 7.4 All risk in the Goods shall pass to the Buyer from and including the date the contract is formed under clause 2 or clause 3 except where the Buyer is a consumer (as defined in clause 10.1), in which case risk in the Goods shall pass on actual delivery to the Buyer, which shall be when the Buyer collects the Goods from the premises where they are stored. The Buyer should obtain adequate insurance cover for the Goods from the relevant date as the Agent and the Seller shall have no responsibility for the loss or theft of, or damage to, the Goods after this time.
- 7.5 If after the contract is formed the Buyer, the Seller or the Agent discovers that the Seller does not have title or unencumbered title to the Goods, both the Buyer and the Seller shall be entitled to rescind the contract. In such circumstances, the Seller and/or the Agent shall refund any sums paid by the Buyer and neither the Agent nor the Seller shall have any further liability to the Buyer.

7.6 If prior to the removal of the Goods a third party claims title to or possession of the Goods, the Seller shall be entitled to rescind the contract and the Seller and/or Agent shall refund any sums paid by the Buyer and neither the Agent nor the Seller shall have any further liability to the Buyer.

## 8. HEALTH AND SAFETY

8.1 The Buyer acknowledges and accepts that certain Goods may contain hazardous or deleterious materials and substances and may be subject to health and safety legislation, including without limitation the Health and Safety Act 1974, the Environmental Protection Act 1990, the Construction (Design and Management) Regulations 2007, the Control of Substances Hazardous to Health Regulations 2002 and the Furniture and Furnishings (Fire) (Safety) Regulations 1988.

8.2 The Buyer acknowledges and accepts that Goods may not comply with the relevant health and safety legislation at the time they are sold, may not be suitable for domestic use or may require specialist handling or treatment prior to their removal from the Premises and during their subsequent transfer and use.

8.3 The Buyer shall be solely responsible for ensuring at its own expense and risk that it is aware of any relevant health and safety legislation or codes of conduct relating to the Goods and that such legislation or codes (as amended) are complied with in full both during the removal, transfer and subsequent use of the Goods as well as in connection with the disposal of any hazardous materials, substances or other waste from the Goods. The Buyer shall produce evidence of its compliance if requested by the Agent or the Seller.

8.4 The Buyer undertakes with the Seller and the Agent that prior to using any of the Equipment, it will carry out, or arrange for the carrying out of, such testing and examination as may be necessary to ensure that the Equipment is so designed and constructed as to be safe and without risk to health when properly used.

8.5 The Buyer agrees and undertakes that it will relieve the Seller and the Agent of any duties pursuant to sections 6(1), 6(1A) and 6(4) of the Health and Safety Act 1974 in respect of the Transferred Assets.

## 9. REMOVAL OF GOODS

9.1 The Buyer shall be solely responsible at its own expense and risk for the safe and lawful removal of the Goods from the Premises and their onward transfer.

9.2 The Buyer will be provided with a list of equipment removal firms by the Agent and will be required to use one of these firms when removing the Goods from the Premises. The Buyer shall contact the Agent to make arrangements for the removal of the Goods and shall effect such removal under the supervision of the Agent during the Agent's normal operating hours by no later than the due date for payment for the Goods. However, the Agent shall be under no obligation to release the Goods to the Buyer until it has been able to confirm to its satisfaction that it has received full payment for the Goods in cleared funds. The Agent shall release the Goods only to the Buyer or its authorised agent and not to any third party.

9.3 Prior to the removal of the Goods, the Buyer shall at its own expense and where reasonably necessary carry out, or procure the carrying out of, a full risk assessment to assess the risk of disconnecting, detaching, dismantling and/or removing the Goods from the Premises. The Buyer shall make the results of such assessment available to the Agent or the Seller on request.

9.4 The Buyer shall ensure that the Premises (including any electrical, gas, water, steam, waste or other supply or utility) are left in a safe condition following the removal of the Goods and shall make good any damage caused by it or its employees, representatives, agents or subcontractors in effecting the removal of the Goods. The Buyer shall also comply with any of the Seller's health and safety rules and regulations or general site rules or regulations notified to the Buyer by the Agent prior to effecting the removal of Goods.

9.5 The Buyer shall not use flame cutters, explosives or any other dangerous equipment, substance or process in connection with the removal of the Goods without the prior written permission of the Agent.

9.6 Where the Goods comprise buildings or plant housings, the Buyer shall at its own expense obtain

any necessary planning permissions prior to the removal of the Goods. It is the sole responsibility of the Buyer to investigate whether any planning permission is required in relation to the Goods.

- 9.7 The Buyer shall obtain adequate public liability insurance and employer's liability insurance in respect of the removal of the Goods. The Buyer shall if required by the Agent produce evidence that adequate insurance is in place and the Agent shall be under no obligation to release the Goods to the Buyer unless and until the Buyer has provided such evidence.
- 9.8 If the Agent or the Seller has reasonable grounds to believe that damage is likely to be caused to the Premises as a result of the removal of the Goods, the Buyer may be required to deposit such sum by way of deposit as the Agent or the Seller in its absolute discretion considers reasonable. If the Buyer refuses to deposit the sum requested, the Agent or the Seller shall be entitled to refuse to allow the Buyer to remove the Goods and the Seller shall be deemed to be in default under clause 10.
- 9.9 The Buyer shall indemnify and keep indemnified the Agent and the Seller against all liabilities, costs, claims, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered, incurred or paid by the Agent and/or the Seller arising out of or in connection with the Buyer's removal of the Goods.

## 10. **CONSUMER RIGHT TO CANCEL THE CONTRACT AND RECEIVE A REFUND**

- 10.1 The provisions of this clause 10 apply to consumers only. For the purposes of these Terms, a "**consumer**" is an individual acting for purposes which are wholly or mainly outside that individual's trade, business, craft or profession.
- 10.2 A Buyer who is a consumer ("**Consumer Buyer**") may cancel a contract at any time up to the date 14 days after the day on which the Goods have been received ("**Cancellation Period**"). This means that during the Cancellation Period if the Consumer Buyer changes his mind or decides for any other reason that he does not want to receive or keep the Goods, the Consumer Buyer can notify the Agent of the decision to cancel the contract and receive a refund. For example, if the contract is formed on 1 January (under clause 2 or clause 3 above) and the Consumer Buyer takes receipt of the Goods on 5 January, the Consumer Buyer may cancel the contract at any time between 1 January and the end of the day on 19 January.
- 10.3 To cancel the Contract, the Consumer Buyer must let the Agent know about the decision to cancel. The easiest way to do this is to complete and return the cancellation form set out at the end of these Terms. If this method is used, the Agent will email the Consumer Buyer to confirm receipt of the cancellation. Alternatively, the Consumer Buyer may print out and use a copy of the cancellation form located in the Schedule at the end of these Terms.
- 10.4 In addition to using the cancellation form referred to in clause 10.3, the Consumer Buyer may cancel the contract by contacting the Agent using the contact details set out in clause 15 below. If emailing or writing to the Agent, the Consumer Buyer is advised to include details of the contract (such as the nature of the Goods, the purchase price, the date of purchase and any reference) to help the Agent identify it. If the cancellation notice is sent by email or by post, then the cancellation is effective from the date the email is sent or the letter posted. For example, notice will be in time as long as the notice is in the last post on the last day of the Cancellation Period or emailed before midnight on that day.
- 10.5 If the Consumer Buyer cancels the contract, the Agent will:
- 10.5.1 refund the price paid for the Goods. However, as permitted by law, the refund may be reduced to reflect the reduction in the value of the Goods, if this has been caused by the Consumer Buyer's handling them in a way which would not be permitted in a shop. If a refund is issued before the Goods have been inspected and it is later discovered that the Consumer Buyer has mishandled the Goods, the Consumer Buyer must pay the Agent an appropriate amount; and
- 10.5.2 refund any delivery costs paid. However, as permitted by law, the maximum refund of the delivery charge will be the costs of delivery by the least expensive delivery

method offered (provided that this is a common and generally acceptable method). For example, if a more expensive express method of delivery is selected, then the amount refunded will be what the Consumer Buyer would have paid if the cheaper standard method of delivery had been selected. If the contract is cancelled in accordance with this clause 10, then except where clause 10.7 applies, the Consumer Buyer shall be responsible for the cost of returning the Goods and such cost will not be refunded.

- 10.6 Refunds will be processed to the credit or debit card used to make the payment and will be completed:
- 10.6.1 if the Goods have been received by the Consumer Buyer and the Agent has not offered to collect them, within 14 days after the day on which the Agent or the Seller (as applicable) receives the Goods back from the Consumer Buyer or, if earlier, the day on which the Consumer Buyer provides the Agent with evidence that the Goods have been sent back to the Agent or the Seller (as applicable); or
- 10.6.2 if the Goods have not been received by the Consumer Buyer or the Goods have been received and the Agent has offered to collect them, within 14 days after the day on which the Consumer Buyer informs the Agent of the decision to cancel the contract.
- 10.7 If any Goods are returned because they are faulty or not as described, the Agent shall refund the price of the Goods together with any applicable delivery charges and any reasonable costs incurred by the Consumer Buyer in returning the Goods.
- 10.8 If Goods have been received by the Consumer Buyer before the decision to cancel the contract is made:
- 10.8.1 the Consumer Buyer must return the Goods without undue delay and in any event not later than 14 days after the day on which the Consumer Buyer informs the Agent of the decision to cancel the contract; and
- 10.8.2 unless the Goods are faulty or not as described (in this case see clause 10.7), the Consumer Buyer will be responsible for the cost of returning the Goods.
- 10.9 The Seller is under a legal duty to supply consumers with goods that are in conformity with the contract. Consumers have legal rights in relation to goods that are faulty or not as described. These legal rights are not affected by anything in these Terms. Advice about the legal rights of consumers is available from the Buyer's local Citizens' Advice Bureau or Trading Standards office.
- 11. BUYER DEFAULT**
- 11.1 If the Buyer fails to make any payment due to the Agent in full by the due date for payment, then without prejudice to any other rights the Agent may have the Agent shall be entitled to charge the Buyer interest on any overdue amount from the due date for payment (i) at a rate of 3% above the base rate of Barclays Bank Plc from time to time if the Buyer is a consumer or (ii) at the rate specified in the Late Payment of Commercial Debts (Interest) Act 1998 if the Buyer is not a consumer. This interest shall accrue on a daily basis from the due date until the date of actual payment of the overdue amount, whether before or after judgment. The Buyer must pay interest together with any overdue amount on demand.
- 11.2 In the event that the Goods are not removed from the Premises by the due date for payment (whether by agreement or otherwise), then without prejudice to any other rights the Agent or the

Seller may have the Agent reserves the right to charge the Buyer by way of reimbursement for its reasonably incurred storage and administration costs until the earlier of the date the Goods are removed by the Buyer or the date the Seller rescinds the contract.

- 11.3 The Seller may rescind the contract without incurring any liability to the Buyer if:
- 11.3.1 the Buyer fails to pay any sum due by the due date for payment;
  - 11.3.2 the Buyer fails to remove the Goods within the time period permitted;
  - 11.3.3 the Buyer does not comply with its obligations under clause 8 and clause 9 in effecting the removal of the Goods; or
  - 11.3.4 the Buyer removes the Goods without obtaining the prior permission of the Agent.
- 11.4 Without prejudice to any claims the Seller and/or the Agent may have against the Buyer in tort or for breach of contract, or otherwise, if the Seller rescinds the contract under clause 11.3, then:
- 11.4.1 all sums paid by the Buyer shall be forfeited to the Seller; and
  - 11.4.2 the Seller shall be entitled to resell the Goods to a third party privately or publicly without accounting to the Buyer in the event of a sale at a higher or lower price than that originally agreed to be paid by the Buyer (in which case the Buyer agrees that any resale price achieved by the Seller in respect of the Goods is commercially reasonable).
- 11.5 If the Seller rescinds the contract under clause 11.3, the Buyer shall indemnify and keep indemnified the Agent and the Seller against all liabilities, costs, claims, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered, incurred or paid by the Agent and/or the Seller arising out of or in connection with:
- 11.5.1 the rescission of the contract and the resale of the Goods (including any loss arising out of the resale of the Goods at a lower price than that originally agreed to be paid by the Buyer);
  - 11.5.2 the Buyer's failure to remove the Goods within the time period permitted;
  - 11.5.3 the Buyer's failure to comply with its obligations under clause 8 in effecting the removal of the Goods; and
  - 11.5.4 the Buyer's removal of the Goods without the prior permission of the Agent,
- provided that any sums forfeited by the Buyer under clause 11.4.1 shall be credited against such liabilities, costs, claims, expenses, damages and losses.

## 12. WEBSITES

- 12.1 Access to the Agent's website (**Website**) is permitted on a temporary basis and the Agent gives no guarantee that the Website, or any content on it, will always be available or be uninterrupted.
- 12.2 The Buyer and all other users of the Website are responsible for making all arrangements necessary for accessing the Website and the Agent shall not be liable to the Buyer or any other person if for any reason the Website is or becomes unavailable at any time or for any period or if it is not possible to make a Bid.
- 12.3 In addition to the Agent's Website, the Agent may use third party auction websites for the purpose of selling Goods by auction (including without limitation [www.bidspotter.co.uk](http://www.bidspotter.co.uk)) (**Auction Websites**). The Auction Websites are owned and operated by third parties whose own terms and conditions and privacy policies will apply to their use. The Agent and the Seller

have no control over such Auction Websites (or the terms and conditions and privacy policies governing their use) and consequently neither the Agent nor the Seller shall have any liability to the Buyer or any other person whatsoever in relation to such Auction Websites, including without limitation any unavailability, interruption in service or any other failure to operate.

### 13. **LIMITATION OF LIABILITY TO CONSUMERS**

13.1 This clause 13 applies only to consumers (as defined in clause 10.1).

13.2 Consumers are reminded that the Agent acts only as an agent of the Seller and is not the manufacturer or supplier of the Goods.

13.3 Nothing in these Terms shall limit or exclude the liability of the Agent, the Seller, other members of the Agent's and the Seller's respective groups of companies, third parties connected to the Agent and the Seller and the Agent's and the Seller's directors, employees, subcontractors and agents for:

13.3.1 death or personal injury caused by its or their negligence;

13.3.2 fraud or fraudulent misrepresentation;

13.3.3 breach of the terms implied by section 12 of the Sale of Goods Act 1979 (title and quiet possession), however attention is drawn to clause 7.1;

13.3.4 breach of the terms implied by sections 13, 14 and 15 of the Sale of Goods Act 1979 (description, satisfactory quality, fitness for purpose and samples); and

13.3.5 any matter in respect of which it would be unlawful to exclude or restrict liability.

13.4 If the Agent or the Seller fails to comply with these Terms, it or they shall be responsible for loss or damage the Buyer suffers that is a foreseeable result of its or their breach of these Terms or its or their negligence, but no party referred to in clause 13.3 is responsible for any loss or damage that is not foreseeable. Loss or damage is foreseeable if they were an obvious consequence of the breach or if they were contemplated by the Agent and/or the Seller and the Buyer at the time this contract was entered into.

### 14. **LIMITATION OF LIABILITY TO NON-CONSUMERS**

14.1 This clause 14 applies only to non-consumers.

14.2 Nothing in these Terms shall limit or exclude the liability of the Agent, the Seller, other members of the Agent's and the Seller's respective groups of companies, third parties connected to the Agent and the Seller and the Agent's and the Seller's directors, employees, subcontractors and agents for:

14.2.1 death or personal injury caused by its or their negligence;

14.2.2 fraud or fraudulent misrepresentation; or

14.2.3 breach of the terms implied by section 12 of the Sale of Goods Act 1979 (title and quiet possession), however attention is drawn to clause 7.1.

14.3 Subject to clause 14.2, all conditions, warranties and other terms which might otherwise be implied by statute, common law or the law of equity, including without limitation the terms implied by sections 13 to 15 of the Sale of Goods Act 1979, are, to the fullest extent permitted by law, expressly excluded.

14.4 Subject to clause 14.2, the liability of the Agent, the Seller, other members of the Agent's and the Seller's respective groups of companies, third parties connected to the Agent and the Seller and the Agent's and the Seller's directors, employees, subcontractors and agents for loss incurred or suffered by the Buyer shall be limited to the price paid by the Buyer for the Goods (or if no price has been paid, the price agreed under clause 2 or clause 3).

14.5 Subject to clause 14.2, the Agent, the Seller, other members of the Agent's and the Seller's respective groups of companies, third parties connected to the Agent and the Seller and the Agent's and the Seller's directors, employees, subcontractors and agents shall under no circumstances whatsoever be liable to the Buyer or any other person, whether in contract, tort (including negligence), breach of statutory duty, misrepresentation, or otherwise, for any:

- 14.5.1 loss of income or revenue;
- 14.5.2 loss of business or business opportunity;
- 14.5.3 loss of profits;
- 14.5.4 loss of contracts;
- 14.5.5 loss of anticipated savings;
- 14.5.6 loss of, or corruption or damage to, information or data;
- 14.5.7 loss of or damage to goodwill;
- 14.5.8 loss arising from third party claims;
- 14.5.9 wasted management or office time; and
- 14.5.10 indirect, special or consequential loss,

arising under or in connection with these Terms and/or the sale of any Goods, provided that nothing in this clause 14.5 shall prevent claims for loss of or damage to the Buyer's or any other person's tangible property or any other claims for direct financial loss that are not excluded by any of the categories set out above.

## 15. CONTACT THE AGENT

To contact the Agent with any comments, questions or complaints, the Buyer should telephone 020 7647 5120, send an email to [auction-eur@gordonbrothers.com](mailto:auction-eur@gordonbrothers.com), or send a letter to Gordon Brothers, 3rd Floor, 13 Hanover Square, London W1S 1HN. The Agent will try to resolve any issues as soon as possible and, where appropriate, contact the Buyer to provide an answer or explain the outcome.

## 16. DATA PROTECTION

The Agent shall comply with UK data protection legislation and undertakes to process personal data in a lawful and fair manner only in connection with the sale of Goods. The Agent shall process personal data, which may include sensitive personal data, in accordance with its Privacy Policy <http://www.gordonbrothers.com/Privacy.aspx>, which can be found on the Website. Processing personal data may include processing payments in respect of the Goods, contacting the Buyer in connection with the sale of the Goods and making credit and money laundering checks and storing the results. Personal data shall not be held for longer than the Agent considers necessary for the purposes for which it is processed. The words "data", "personal data", "processing", and "sensitive personal data" used in this paragraph have the meanings given to them in the Data Protection Act 1998.

## 17. INTELLECTUAL PROPERTY

17.1 In this clause **Intellectual Property Rights** means all patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

- 17.2 All Intellectual Property Rights in and to the Website, the Sale Particulars, the Auction Particulars, any catalogues or advertising materials issued by the Agent and any photographs, illustrations or other images of the Goods (**Intellectual Property**) are and shall remain the property of the Agent or the Seller or their licensors.
- 17.3 The Buyer shall not copy, reproduce, alter, adapt, modify, translate or deface the Intellectual Property, in whole or in part and for any purpose, without the prior written permission of the Agent.

18. **EVENTS BEYOND THE REASONABLE CONTROL OF THE AGENT**

The Agent and the Seller shall not be liable to the Buyer for any failure in the performance of its or their obligations caused by factors beyond its or their reasonable control.

19. **NOTICES**

- 19.1 Any notice required to be given under or in connection with these Terms shall be in writing and in English and shall be delivered by hand or by pre-paid first-class post or other next working day delivery service or by fax, but not by email. The Agent's address and fax number shall be as set out in the Sale Particulars or the Auction Particulars and the Buyer's address and fax number shall be as notified to the Agent in writing.
- 19.2 Notices shall be deemed to have been received at the time the notice is left at the proper address if delivered by hand, at 9.00 am on the second working day after posting if delivered by pre-paid first-class post or other next working day delivery service, or at 9.00 am on the next working day after transmission if delivered by fax.
- 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. **STATUS OF THESE TERMS**

- 20.1 Subject to any variation agreed under clause 21, any sale of Goods to the Buyer by auction or private treaty shall be on these Terms to the exclusion of all other terms and conditions, including any other terms that the Buyer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 20.2 The Buyer acknowledges and agrees that it has not relied on any statement, promise or representation made or given by, or on behalf of, the Agent or the Seller which is not set out in these Terms, save that nothing in these Terms shall exclude or limit the Agent's or the Seller's liability for fraudulent misrepresentation.
- 20.3 Clauses which expressly or by implication survive termination of the contract shall continue in full force and effect.
- 20.4 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.

21. **VARIATION**

- 21.1 The Agent may in its absolute discretion vary these Terms at any time and for any reason. Such amendments shall be posted on the Website and shall be effective immediately provided that such amendments shall not affect any contract already concluded under clause 2 or clause 3.
- 21.2 Except as set out in these Terms, no other variation of these Terms, including the introduction of any additional terms and conditions, shall be effective unless agreed in writing signed by the Agent.

22. **SEVERANCE**

If any term of these Terms is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible,

the relevant term shall be deemed deleted. Any modification to or deletion of a term under this clause shall not affect the validity and enforceability of the rest of these Terms.

23. **WAIVER**

No failure or delay by a party to exercise any right or remedy provided under these Terms or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

24. **THIRD PARTIES**

24.1 Except as expressly provided in these Terms and pursuant to clause 24.2, no third party shall have any right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of these Terms.

24.2 The Terms are intended to benefit the Seller and the Terms shall be enforceable by the Seller to the full extent permitted by law, subject to the other terms and conditions of the Terms.

24.3 The Agent may rescind or vary the terms of these Terms without the permission of any third party.

25. **LAW AND JURISDICTION**

These Terms, together with the Sale Particulars, the Auction Particulars and any special conditions notified to the Buyer in writing prior to the sale of the Goods, shall be governed by English law and both parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to resolve any dispute or claim arising out of or in connection with the aforementioned documents (including non-contractual disputes or claims).

SCHEDULE

CANCELLATION FORM – CONSUMERS ONLY

Use this form only if you wish to cancel the contract.

Complete, detach and return this form together with the Goods, or if the goods have not yet been received, send the form by fax or email.

To: Gordon Brothers  
3rd Floor, 13 Hanover Square,  
London W1S 1HN

Tel: 020 7647 5120  
Fax: 020 7647 5121  
Email: [auction-eur@gordonbrothers.com](mailto:auction-eur@gordonbrothers.com)

I/we\* hereby give notice that I/we\* cancel my/our\* contract for the supply of the following goods:

.....  
.....  
.....  
.....

(\* Delete as applicable.)

Date the contract was made: .....

Reference number: .....

My name: .....

My address: .....

.....

.....

My signature  
(only if form is notified on paper): .....

Date: .....