

**BROWN & CO STANDARD MANUAL**

Our ref: KEP/MS/P&B/May 2009

Date as Postmark

Dear Sir

**Collective Machinery Auction Sale  
Peacock & Binnington, The Old Foundry, Bridge Street, Brigg  
Saturday, 16<sup>th</sup> May 2009 – 10.00 am**

We are pleased to invite entries for this annual collective sale.

- We are able to include photographs of machinery on our Brown & Co website at [www.brown-co.com](http://www.brown-co.com). Should you wish to send digital photographs of your lots by email for inclusion on the website, please forward to [d.job@brown-co.com](mailto:d.job@brown-co.com)
- In order to maintain the standard of equipment that is entered in the sale, we wish to continue to restrict the entries to good quality farm machinery and vehicles only.
- Vendors who wish to enter registered vehicles (e.g. combines, tractors, forklifts, 4 x 4's) should forward a copy of the registration document with their entry form. Wherever possible instruction manuals relating to the machinery should be delivered to our offices prior to sale day.
- Entries can be delivered at the following times:

Friday, 8 <sup>th</sup> May	8.30 am – 4.30 pm
Saturday, 9 <sup>th</sup> May	8.30 am – 12 noon
Monday, 11 <sup>th</sup> May	8.30 am – 4.30 pm
Tuesday, 12 <sup>th</sup> May	8.30 am – 4.30 pm
Wednesday, 13 <sup>th</sup> May	8.30 am – 4.30 pm

No deliveries will be accepted after this date.

- Deadline for inclusion in catalogue and advertising: Thursday, 23<sup>rd</sup> April 2009
- Final Entry Deadline: 12 Noon Wednesday,  
13<sup>th</sup> May 2009

Please do not hesitate to contact us should you require any further information relating to this auction sale.

Yours faithfully

**Brown & Co**

For and on behalf of

Brown & Co., Property and Business Consultants LLP

Email: [daniel.job@brown-co.com](mailto:daniel.job@brown-co.com)



## CONDITIONS OF ENTRY

### Safety Regulations

We reserve the right to refuse lots which we consider to be in breach of statutory safety or other regulations. Secondhand electrical goods will only be accepted if accompanied by a safety certificate signed by a competent qualified electrician. If you have electrical goods to enter we may have an electrician visiting the site to test other goods. Please telephone the auctioneers for further details.

### Delivery of Lots

Entries must be delivered to the sale field by 4.30 pm on Wednesday 13<sup>th</sup> May 2009. No lots can be accepted after this time. Brown & Co reserve the right to refuse entries considered unsuitable for the sale.

### Loss or Damage

We accept no liability whatsoever in respect of loss or damage to any machine or article entered for sale.

### Commission

Commission will be charged at the following rates:

- Tractors, combines, tele-handlers, forklifts, self propelled sprayers/potato harvesters and vehicles will be charged at 5% of the hammer price.
- All other farm machinery will be charged at 7.5% of the hammer price.
- Garden machinery will be charged at 15% of the hammer price.

Our commission and VAT will be deducted from the proceeds of sale and we will issue a receipted VAT invoice at the time of accounting to you.

### Entry Fee

All lots are subject to an entry fee of £10 (+VAT) per lot.

### Reserve Prices

These must be notified on the entry form. No reserve of less than £200 can be accepted.

### Lot Removal

In the event of an entry not being sold, you will be notified after the sale and these lots must be removed from the sale field within fourteen days. We accept no responsibility for the loss or damage of lots during this period. Any goods left after fourteen days will, without notice, either be sold by us at the expense of the owner, or returned to him carriage forward.

### Conditions of Sale

A copy of our full conditions of sale for machinery sales by auction are enclosed with this form.

### Hire Purchase

We will not offer for sale any articles subject to the conditions of a hire purchase agreement unless the existence of such an agreement is disclosed to us, at least 20 days prior to the sale and all consents necessary to the sale obtained prior to the date of the sale.

### Default

The auctioneers shall not be considered responsible for any default on the part of either the purchaser or the vendor and any remedy shall be against them only and not the auctioneer.

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### **Value Added Tax**

For the purposes of VAT only, the auctioneers will be deemed to be the principal in the sale of each lot. For VAT registered vendors we will collect the tax from each purchaser and pay the tax to the vendors, who should, in turn, account for it as if the goods had been sold to the auctioneer.

Vendor's commission is subject to VAT at the prevailing rate.

### **Payment**

Brown & Co operate a separate clients account which is maintained and audited in accordance with the RICS Members Account Regulations. There is a clients money protection scheme available. Brown & Co are entitled to the benefit of monies held in the clients account. The proceeds of the sale will be paid over to you after 10 working days following the sale in order to allow purchaser's cheques to be cleared through our bank. In accounting to you we will be entitled to offset any sums due to us in respect of fees, commissions, expenses and VAT.

### **Exported Goods**

Our sales are often attended by overseas buyers. In the event of goods being sold for export the following procedures will apply:- The purchaser will be charged VAT at the standard rate, and if within three months of the sale the purchaser provides valid documentary evidence that the goods have been removed from the UK, the VAT will be refunded to the purchaser. It is advisable that vendors remain VAT registered for a period of at least three months after the sale.

### **Taxation**

You should take separate professional advice concerning taxation implications which may arise from the sale. It is expressly understood that Brown & Co are not required to give tax advice relating to this sale.

### **Insurance**

Brown & Co act as agents only in the sale of your property. You need to ensure that adequate insurance cover is held by you in the event of the theft of any lot or default by the purchaser for any reason. We also suggest that you confirm that you are covered for third party liability as well.

### **Complaints Handling Procedure**

In accordance with the rules of the RICS, Brown & Co have a complaints handling procedure. If you require further information or have reason to make a complaint because you are dissatisfied with our service, further details can be obtained from our offices.

### **Data Protection**

In order to comply with the Data Protection Act 1998, we must inform you that Brown & Co intends to process data relating to our clients for the purposes of both performing the contract and marketing our services. If you have any objection to this, please let us know.

### **Money Laundering**

In order to comply with current Money Laundering Regulations we are required to obtain information confirming the identity of a vendor if the value of goods sold exceed €15,000. Please inform us when receiving this entry form if you consider that the combined value of the items you intend to sell exceed the above figure. Further details relating to the information required under the regulations is obtainable from the auctioneers office.

**CONDITIONS OF SALE FOR MACHINERY SALES BY AUCTION**  
(with buyer's premium)

**1 DEFINITIONS**

In these conditions the following terms have the following meanings unless inconsistent with the context:

"Auctioneers" means Brown & Co – Property and Business Consultants LLP ('Brown & Co')

"Buyers Premium" means the premium charged to buyers on purchase of Lots

"Commission" means the commission charged on the sale of Lots

"Conditions" means the standard terms and conditions of business set out in this document

"Lots" means all or any machinery and other items sold or intended to be sold in accordance with these conditions

"Purchaser" means a person, firm or Company who purchase any Lot

"Vendor" means a person, firm or Company who puts forward any Lot intended to be sold at the sale

"Sale" means a sale of the Lots by auction from time to time organized by the auctioneers

"Saleground" means the venue at which the sale takes place

"Hammer Price" means the price at which a Lot is knocked down by the Auctioneer to the Purchaser

"Sale Proceeds" means the net amount due to the Vendor being the Hammer Price of the lot sold less commission and expenses and any other amounts due to the Auctioneer by the Vendor in whatever capacity and howsoever arising

"Reserve Price" means the minimum price fixed by either the Auctioneers or Vendor at

which any Lot is to be sold at the sale

Except where the context otherwise requires words denoting the singular include the plural and vice versa; words denoting one gender includes all genders, words denoting persons include corporations.

**2 CONDITIONS OF SALE**

All persons attending the Sale in any capacity are deemed to attend on the understanding that they have read and understood these Conditions. These Conditions may be supplemented or superseded by Special Conditions applicable to specific Sales. Please check with the Auctioneer who will announce any departures at the start of the sale.

**3 HEALTH AND SAFETY**

(i) All persons entering the Saleground do so at their own risk and with notice of the condition of the premises and their contents.

(ii) All persons entering the Saleground must take notice of all specific health and safety notices on display at individual sites. If in doubt, please consult the Auctioneer in charge.

(iii) The Auctioneers shall have the right at their discretion to refuse admission to their premises or attendance at their auctions by any person or entry of any lot onto the Saleground.

**4 AUCTIONEERS STATUS**

(i) The Auctioneers sell as agents for the Vendor except where they are stated wholly or partly to own any Lot as principal.

(ii) The parties to the contract of sale are the Vendor and the Purchaser and the Auctioneers as such are not responsible for any default by Vendor or Purchaser.

(iii) The Auctioneers includes any employee or agent of the Auctioneers who at the relevant time has the authority to conduct an auction sale.

**5 EXCLUSION OF LIABILITY**

(i) The Auctioneers shall not be liable for any expense, loss, claim or proceedings in respect of any loss or damage whatsoever to any property real or personal (including any Lots) whether incurred before, during or after the Sale.

(ii) The Auctioneers shall not be liable for any expense, loss, claim or proceedings in any respect or personal injury to or death of any person arising out of or in the course of or caused by the Sale, except to the extent that the same is due to the negligence of the Auctioneers, their servants or agents.

**6 WARRANTY**

In case of dispute as to the interpretation of these Conditions the decision of the Auctioneers shall be final and binding on all parties save as provided for in Clause 18.

**7 RESERVATIONS**

(i) The Auctioneers sell as agent for the Vendor and as such are not responsible for any default by the Vendor or Purchaser.

(ii) The Auctioneers have absolute discretion without giving any reason to refuse any bid, to divide any Lot, to combine any two or more Lots, to withdraw any Lot from the auction and in case of dispute put up any Lot for auction again.

**8 CATALOGUES AND ADVERTISEMENTS**

The Auctioneers cannot guarantee that any Lot described in any Catalogue or advertisement will arrive for sale, nor that any description therein contained can be relied upon as accurate. Any illustrations in Catalogues are for general identification only.

**9 BIDDING**

(i) The Purchaser shall be the person who makes the highest bid acceptable to the Auctioneers.

(ii) In the event of a dispute between two or more bidders as to which is the Purchaser, the dispute shall be settled at the absolute discretion of the Auctioneers.

(iii) No bidding shall be retracted. The bidding increments will be regulated by the Auctioneers. no person may advance less at a bid than a sum to be named from time to time by the Auctioneer.

(iv) All Lots must be inspected by the Purchaser who bids on the understanding that he has inspected (or is deemed to have inspected the Lot for which he is bidding and agrees to take it with all faults and imperfections (subject to Clause 20).

(v) The Auctioneers may accept written instructions to bid on behalf of prospective Purchasers but any instructions accepted shall be at the risk of the prospective Purchasers, who will be deemed to have viewed the Lot(s), and the Auctioneers accept no responsibility in connection with the commissioning of their Staff to bid for any Lots or for failure of telecommunications relating to bids made.

(vi) The Auctioneers may without giving any reason, refuse to accept the bidding of any person.

**10 PAYMENT**

(i) All Purchasers must declare their names and addresses, (and produce proof of identity) and if required, to pay to the Auctioneers the amount of the purchase money and if appropriate VAT and any Buyer's Premium charged in cash immediately on the fall of the hammer. In default of which the Lot or Lots shall be offered again and re-sold at the Auctioneer's discretion.

(ii) Lots must be paid for on the day of Sale, but the Auctioneers may at their absolute discretion, agree to accept payment by such other means or such other manner as they see fit.

**11 RESERVATION OF TITLE**

(i) If the Auctioneers do not demand payment from the Purchaser but allow him to remove the Lot from the sale then the Purchaser shall ensure that the title in the Lot remains vested

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in the vendor (or Auctioneers as Agents of the Vendor) until payment in full has been made. If the Vendor has been paid, but the goods not paid for the title remains with the Auctioneers, until full payment has been made.

(ii) Until payment in full has been made the Purchaser shall undertake to keep the Lot in a good and marketable and readily identifiable condition and not to sell the Lot which remains the property of the Vendor. In addition, if not paid for on demand, the Lot shall be returned to the Auction site for resale and shall be dealt with as in Clause 19.

(iii) In the event of sale by a Purchaser before payment has been made in full, the Purchaser shall hold the proceeds of such sale on trust for the Auctioneers (as Agent of the Vendor).

(iv) In the event of breach of conditions 10 and 11 (i) to (iii), the Auctioneers reserve the right to enter on to the property of the Purchaser, or others,, to reclaim possession of any Lot.

### **12 RESPONSIBILITY FOR LOTS**

After the fall of the hammer such risk and duty shall devolve upon the Purchaser.

### **13 BUYER'S PREMIUM**

The Auctioneers will charge purchasers a Buyers Premium as follows:

- Agricultural machinery will be charged at 5% (plus VAT) on the hammer price.
- Garden machinery will be charged at 10% (plus VAT) on the hammer price.

### **14 VALUE ADDED TAX ON PURCHASE PRICE**

VAT at the standard applicable rate will be added to the sale price of all lots unless they are exempt.

### **15 WARRANTY AND INSPECTION OF GOODS**

(i) Unless a warranty is specifically given for a particular Lot at the time of the Sale all Lots are sold with all faults and imperfections and errors of description. Purchasers should satisfy themselves prior to sale of the Lot as to the condition of each Lot and should exercise and rely on their own judgement as to whether the Lot accords with its description. Neither the Auctioneers, their servants or agents are responsible for errors of description or for the genuineness or authenticity if any Lot. Unless otherwise stated no warranty is given by the Auctioneers, their servants or agents or by any Vendor to any Purchaser in respect of any Lot and any express or implied conditions or warranties are excluded to the fullest extent permitted by law.

(ii) If any Lots are described at the same time of the Sale as in "working order" such Lots shall have no defect which renders them incapable of the reasonable work for which they are intended and they must be capable of performing such work.

(iii) Any Lot described by the Vendor as "just overhauled", "straight from work", "worked up

to date of Sale" or "as new" or any other description calculated to mislead Purchasers will

be deemed to have been sold with a warranty that such Lot is in "working order" and

therefore has no defect which renders it capable of the reasonable work for which it is

intended and it must be capable of performing such work.

(iv) All electrical items require a current Electrician's Safety Certificate and any item delivered without a Certificate will either be refused entry or have the lead and plug removed and sold as scrap. Where electrical equipment is sold without specific instructions for use it is the responsibility of the Purchaser to take independent advice as to the correct operating procedures and any characteristics specific to them. The Auctioneers and Vendor shall have no responsibility for the safe use of the item.

**16 COMPLIANCE WITH ROAD TRAFFIC ACTS**

The Purchaser of any vehicle or trailer is responsible for complying with all legal requirements as to the construction and the use of such vehicle or trailer and for obtaining all certificates, permits or other authorization necessary before such vehicle or trailer can be used on the road.

**17 HEALTH AND SAFETY AT WORK ACT 1974 AND ALL OTHER ACTS AND REGULATIONS APPLICABLE TO HEALTH AND SAFETY**

The Purchaser of any Lot is responsible for complying with all legal requirements as to the safe use of Lots purchased at the Sale and shall ensure compliance with all relevant legislation relating to the safe use of such Lots.

**18 NOTIFICATION OF DEFECTIVE LOTS**

(i) Any Purchaser disputing the accuracy of any description or alleging breach of warranty of the Lot purchased shall notify the Auctioneers as soon as practicable and no later than 12.00 noon on the third working day following the Sale at which the Lot was purchased and shall return such Lot to the Saleground not later than seven days following such Sale together with a competent engineer's report (if so required by the Auctioneer) setting out full details of the defect alleged.

(ii) The Auctioneers may appoint as arbitrator any person including but without limitation any partners of their own firm or any person in their employ whose decision shall be final and binding on the Vendor and the Purchaser.

**19 RESALE DUE TO FAILURE OF COMPLIANCE**

(i) On failure of compliance with the Conditions, the Auctioneers may without prejudice to any other rights they may have, resell the Lot or Lots, either by public auction or private contract and the deficiency (if any) arising upon the resale together with all expenses shall be due as a debt by the defaulter of the first sale.

(ii) The defaulter shall not be entitled to any surplus which may arise by such re-sale, which shall remain the property of the Auctioneers.

(iii) Expenses shall be deemed to include the usual Auctioneers' commission on the re-sale and all expenses for porters, advertising, market tolls, carriage, care, storage, keep and otherwise.

**20 AUCTIONEERS' RIGHT TO ANNUL SALES**

In the event of any dispute or refusal to pay or of non-payment on the part of the Purchaser, the Auctioneers may, entirely at their discretion, annul and cancel the sale of such Lot or Lots.

**21 REMOVAL OF LOTS FROM SALEGROUND**

(i) All Lots whether sold or unsold may not be removed from the Saleground without a pass for the removal of Lots. Passes must be obtained from the Auctioneers' Offices. All Lots must be checked out by a Representative of the Auctioneers.

(ii) All Lots purchased must be cleared from the Saleground within seven days of the date of the Sale in which they were purchased.

(iii) The Auctioneers reserve the right to sell entirely without reserve by auction at the next, or at any future Sale, any sold or unsold Lot which remains in the Saleground for longer than the times specified in clause 21 (ii) above, unless they have received and accepted in their sole opinion a satisfactory explanation in writing from the Purchaser or Vendor as to why the Lot remains in the Saleground.

**22 APPLICABLE LAW**

These Conditions shall be governed and constructed in accordance with English Law. All transactions to which these Conditions apply and all connected matters shall also be governed by English Law.

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