

TERMS AND CONDITIONS OF SALE - SELLER

This document acts to confirm the terms and conditions under which Phixius Auctions, acting as agent, will offer Lots for sale by auction on behalf of Sellers.

1. Our Status

- a. You appoint us to act as agent to sell the Lots on your behalf by auction.
- b. You will pay us the Sellers Commission together with VAT at the prevailing rate.
- c. We will not include any Lots in an auction until they have been received by us.
- d. We will pay the Hammer Price, with Seller's Commission of 10% - 15%, Loss and Damage Warranty and any other charges incurred deducted and applicable VAT applied at the prevailing rate, to you within 28 working days following the Auction in which the Lots are sold, or if later, 7 days after payment by the Buyer.
- e. We will always treat your data with care, personal details are held securely and will not be sold. Our Privacy statement is available at www.phixiusauctions/privacy-data-policy

2. The Reserve

- a. We will agree with you the Reserve, which may be higher than the starting bid.
- b. We shall not publicise the Reserve.
- c. We may bid on your Lot up to an amount equal to the Reserve. You may not bid on your Lot under any circumstances, nor may you permit any person to bid on your lot on your behalf.

3. Seller's obligations and undertakings

- a. You warrant to us and to the Buyer that:
- i. you are the sole owner of the Lot and that you have full right, title and authority to sell the Lot;
 - ii. you have no reason to believe that it is a Forgery;
 - iii. all Lots sold by you are sold to the Buyer with full title guarantee and free from all encumbrances;
 - iv. the Lots are not connected with any criminal activity including tax evasion, and that you are neither under investigation nor have you been charged with or convicted of money laundering, terrorist activities or other crimes
 - v. you have provided to us all of the relevant information and documents in your possession or control concerning the Lot, including information about its authenticity, history, condition, prior ownership and all such information is complete to the best of your knowledge;
 - vi. if the Lot has been removed from a country outside the UK, all duties and taxes on the import of the Lot have been paid, all export and import declarations have been properly made;
 - vii. you will pay any and all duties and taxes that may be due in connection with the sale of the Lot;
 - viii. you have given us notice of any alterations to the Lot of which you are aware.
- b. If you withdraw a Lot from an Auction without our consent, you will pay to us 15% of the Lot's mid estimate and all expenses incurred within 14 days of such withdrawal.
- c. If the Buyer of your Lot decides to exercise their right to cancel, you agree that we shall be entitled to account directly to the Buyer for any applicable refund and we shall account to you for any sums retained on account of the Lot being damaged or tampered with by the Buyer.

d. You will indemnify us and the Buyer in full on demand against all claims, costs or expenses incurred by us or the Buyer as a result of any breach by you of any of the obligations in this clause.

4. Loss and Damage Warranty

a. All Lots held with us are covered by insurance against risk of fire, burglary, water damage and accidental damage except to glass. For this we will charge you 1.5% plus applicable VAT of the Hammer Price for the Lot or the value the Lot would have achieved as assessed by the Auctioneer.

b. Subject to this, risk in the Lot remains with you at all times until risk passes to the Buyer. You will indemnify us and our employees and agents, and the Buyer (where applicable) against all loss damage claims costs and expenses suffered or incurred as a result of any claim in respect of the Lot or the proceeds of the sale of the Lot.

5. Anti-Money Laundering Regulations

a. We are obliged to comply with Anti-Money Laundering regulations which apply to individuals and businesses who deal in the sales, purchases and storage of works of art with a value of €10,000 (or equivalent) or more.

b. Sellers may be requested to provide photographic ID and proof of address documentation in advance of the Auction in which their Lot is to be offered in order to meet the requirements of the regulations.

6. Images and Illustration

a. We will take (or authorise others to take) photographs, video and/or produce images of the Lot and will own all intellectual property rights in any such images and may use them for any purpose whatsoever, and you warrant that there is no restriction on our ability to do so.

7. Unsold Lots

a. If at the end of the Auction, your lot is unsold (other than because it was withdrawn) the Lot will be available for After Sale offers.

- b. Registered Bidders may contact us and offer to purchase a Lot after the Auction. If the bid meets or exceeds the Reserve, we may authorise the sale of your Lot without contacting you and the sale will be completed as if the Lot had been sold during the Auction. If the bid is less than the Reserve, we will contact you. If you accept the bid and wish to proceed, the sale will be completed as if the Lot had been sold during the Auction.
- c. You may contact us at any time after the Auction to remove your Lot from the After Sale process.
- d. Subject to agreement with us, your unsold Lot can be re-offered at a future Auction at a revised Estimate and Reserve or can be collected by you, you are responsible for collection and transportation arrangements and costs.
- e. All Unsold lots are subject to the cataloging/advertising fees which is £2.00 per lot.

8. Withdrawn Lots

- a. If we withdraw a Lot from Auction, we will notify you and you will collect the Lot from us within 30 days of our notification.
- b. If a withdrawn Lot remains uncollected after 30 days, you shall pay us a fee of £5 per day per Lot, for every day that the Lot remains with us beyond the 30-day period.
- c. You are responsible for collection and transportation arrangements and costs.

9. Forgeries

- a. A sale shall be cancelled and the Buyer shall be entitled to a refund of both the Hammer Price and the Buyer's Premium if a Lot bought by the Buyer through our Auction is shown to our satisfaction and within 14 days of the Auction to be a Forgery.

10. The contract between you and the Buyer

- a. The contract between you and the Buyer will be formed when the hammer falls accepting the highest bid for the Lot at auction.

- b. You may directly enforce any terms in the Terms and Conditions of Sale - BUYER against a Buyer and/or Bidder to the extent that you have suffered damages and/or loss as a result of the Buyer and/or the Bidder's breach of the Terms and Conditions of Sale - BUYER.
- c. If you breach these Terms and Conditions of Sale - SELLER, you may be responsible for damages and/or losses suffered by a Buyer, Bidder and/or by us. If we are contacted by a Buyer and/or a Bidder who wishes to bring a claim against you, we may in our discretion provide the Buyer and/or Bidder with information or assistance in relation to that claim.
- d. We normally act as agent only and will not have any responsibility for default by you or by the Buyer.
- e. We may delay completion of, or cancel, any contract for sale where
 - i. we have not completed our enquires pursuant to the Money Laundering Regulations and related legislation to our satisfaction, or
 - ii. where we have concerns about the Buyer in relation to the Money Laundering Regulations and related legislation, or
 - iii. where we have reason to believe that the transaction might be unlawful for any reason, or
 - iv. that the sale might put us under any civil or criminal liability.

11. Settlement

- a. Provided that the Buyer has paid for the Lot and we have completed necessary checks under the Money Laundering Regulations, we will usually pay the net sum due to you within 28 working days of the auction.
- b. If the Buyer has not paid for the Lot, we will not submit payment to you. In this case, no settlement will be made. We will however discuss with you the rights that we may exercise under Clause 15 of our Terms and Conditions of Sale - BUYER in relation to a Buyer's failure to pay. We will not release the Lot to the Buyer until we have received payment

in full of the Price for the Lot and have completed the necessary checks under the Money Laundering Regulations.

c. You must notify us in writing of your bank account details change. We will not be responsible for any payments made to the incorrect bank account if this is because you have not provided us with the correct bank account details.

d. If we make payments to your bank account in error, we may request reimbursement by sending you an invoice.

e. We may deduct any sums that you owe us from the Proceeds.

12. Liability

a. Save as set out in these Terms, we exclude to the fullest extent permitted by law all warranties and conditions, whether express or implied by statute, common law or otherwise.

b. Nothing in these Terms shall operate to exclude or limit the liability of a party in respect of death or personal injury resulting from that party's own negligence, for fraud or for any liability that cannot be excluded or limited under applicable law.

c. No party to these Terms shall be liable to any other contract, tort (including negligence) or otherwise for any indirect or consequential losses, or for any loss of profits, loss of good will, loss of revenue, loss of business or loss of anticipated savings.

d. Subject to Clauses 12.b and 12.c, our liability to you shall not exceed £5,000, unless your claim relates to an item sold through an Auction in which case our liability to you shall not exceed the greater of £15,000 or the Hammer Price for the relevant Lot.

e. We will not be responsible or liable for errors and omissions to execute bids, caused by a loss of internet connection, a breakdown or interruption of the on-line bidding system, or a breakdown or failure of any internet connection, computer or IT system.

13. General

- a. No party shall have any liability in respect of any delay in performance or non-performance of its obligations under these Terms (other than an obligation to pay) owing to Force Majeure. If a party is affected by Force Majeure it shall notify the other parties as soon as reasonably possible, in any event within 5 days, and shall take reasonable steps to mitigate the effect of the Force Majeure. Subject to Clause 4.b, risk in the Lot remains with you at all times until risk passes to the Buyer. You will indemnify us and our employees and agents, and the Buyer (where applicable) against all losses, damages, claims, costs and expenses suffered or incurred as a result of any claim in respect of the Lot or proceeds of the sale of the Lot.
- b. Every person on our premises shall be deemed to be there at their own risk and, subject to clause 9.b, shall have no claim against us in respect of accident or loss, however caused.
- c. These Terms are governed by in interpreted in accordance with the laws of England and Wales or the laws of Scotland or Northern Ireland if you live there). If you choose to bring proceedings in conjunction with these Terms you must do so in the courts of England and Wales, unless you live in Scotland, in which case you can choose to bring proceedings there, or in Northern Ireland, in which case you can choose to bring proceedings there.
- d. Any or all part of any term of these Terms that is found to be unfair or unenforceable by a court of competent jurisdiction will be treated as deleted and the remainder of the Terms will continue to govern each of our respective obligations.
- e. Any notice from you to us must be sent in writing to us at our address detailed on our website.
- f. If you elect to collect the Lot from us you will bear all associated cost, expenses and duties.

14. Definitions

- a. 'Auctioneer' means Phixius Auctions, located at East Farm Business Park, Chitterne Road, Nr Warminster, Wiltshire, BA12 0PG, United Kingdom (07426917065), or its authorised auctioneer, as appropriate;

- b. 'Bidder' means a person who places a bid for Lots at the auction;
- c. 'Buyer' means the person who makes the highest bid for a Lot accepted by the Auctioneer;
- d. 'Buyer's Premium' means the premium that we will charge to the Buyer on the purchase of a Lot;
- e. 'Consumer' means an individual acting for purposes which are wholly or mainly outside that individual's trade, business, craft or profession;
- f. 'Deliberate forgery' means: (i) an imitation made with the intention of deceiving as to authorship, origin, date, age, period, culture or source; (ii) which is described in the catalogue as being the work of a particular creator without qualification; and (iii) which at the date of the auction had a value materially less than it would have had if it had been as described;
- g. 'FCA' means the Financial Conduct Authority;
- h. 'Hammer Price' means the level of the highest bid for a Lot accepted by the Auctioneer by the fall of the hammer;
- i. 'Lot(s)' means the goods that Sellers consign for sale at our auctions;
- j. 'Money Laundering Regulations' means the Money Laundering and Transfer of Funds (Information on the Payer) Regulations 2017, as amended;
- k. 'Reserve' means the minimum hammer price at which the Lot may be sold;
- l. 'Sale proceeds' means the net amount due to the Seller;
- m. 'Seller' means the owner of the Lots consigned for sale at our auctions;
- n. 'Seller's Commission' means the commission that we charge the Seller on the sale of the Lots as set out in Clause 1d;

- o. 'Terms and Condition of Sale - SELLER' means the terms on which we agree to offer Lots for sale in our auctions as agent on behalf of Sellers, as amended or updated from time to time;
- p. 'Terms and Conditions of Sale - BUYER' means the terms under which Buyers purchase Lots at auction, as amended or updated from time to time;
- q. 'Trader' means a Seller who is acting for purposes relating to that Seller's trade, business, craft or profession, whether acting personally or through another person acting in the trader's name or on the trader's behalf;
- r. 'VAT' means Value Added Tax or any equivalent sales tax;
- s. 'Website' means our website available at www.phixiusauctions.com