

## TERMS AND CONDITIONS OF BUSINESS

### INFORMATION FOR BUYERS AT AUCTIONS

1. **Introduction.** The following notes are intended to assist bidders and buyers, particularly those that are inexperienced or new to our salerooms. All of our auctions are governed by our Conditions of Business incorporating the Terms of Consignment (primarily applicable to sellers), the Terms of Sale (primarily applicable to bidders and buyers) and any notices that are displayed in our salerooms or announced by the auctioneer at the auction. Our Conditions of Business are available for inspection at our salerooms and the Terms of Sale are printed in the back of our auction catalogues. Our staff will be happy to help you if there is anything in our Conditions of Business that you do not fully understand.

**Please make sure that you read our Terms of Sale set out in the catalogue or on our website carefully before bidding in the auction. If your bid is successful, you will be obliged to comply with our Terms of Sale.**

2. **Agency.** As auctioneers we usually act on behalf of the seller whose identity, for reasons of confidentiality, is not normally disclosed. If you buy at auction your contract for the goods is with the seller, not with us as auctioneer.
3. **Estimates.** Estimates are designed to help you gauge what sort of sum might be involved for the purchase of a particular lot. Estimates may change and should not be thought of as the sale price. The lower estimate may represent the reserve price (the minimum price for which a lot may be sold) and will not be below the reserve price. Estimates do not include the buyer's premium or VAT (where chargeable). Estimates are prepared some time before the auction and may be altered by a saleroom notice or announcement by the auctioneer before the auction of the lot. They are not definitive.
4. **Buyer's Premium.** The Terms of Sale oblige you to pay a buyer's premium at 22.5% on the hammer price of each lot purchased. In addition, VAT is payable on this premium (27% inc. VAT) (see below). All bids submitted via the-saleroom.com incur an additional fee of 5.94% inc VAT.
5. **VAT.** Items in our catalogue may be marked in the following ways:
  - a. (\*) indicates that VAT is payable by the buyer on the hammer price as well as being an element in the buyer's premium. VAT will be chargeable at the standard rate (presently 20%). This imposition of VAT is likely to be because the seller is registered for VAT within the European Union and is not operating the Dealers Margin Scheme or because VAT is due at 20% on importation into the UK.
  - b. (\*\*) indicates that the lot has been imported from outside the European Union. [These lots are liable to a reduced rate of VAT (5% on the hammer price and buyer's premium)].
  - c. Lots which do not have either of the above symbols have no VAT payable on the hammer price. This is because such lots are sold using the Auctioneers' Margin Scheme. The VAT included within the premium is not recoverable as input tax.
6. **Inspection of goods by the buyer.** As we act on behalf of the seller, we are dependent on information provided by the seller about their goods. We may inspect lots and will act reasonably in taking a general view about them. However, we are normally unable to carry out detailed examinations of lots to check their condition in the way a buyer would do. You will have ample opportunity to inspect the goods. You must inspect and investigate lots that you might wish to bid for. **Please note carefully the exclusion of liability for the condition of lots set out in the Terms of Sale at clause 12.4.**
7. **Electrical goods.** These are sold as "antiques" and for collection and display only. If you buy electrical goods for use you must ask a qualified electrician to check them for compliance with safety regulations before you use them.
8. **Export of goods.** If you intend to export goods you must find out:
  - a. whether an export licence is needed; and
  - b. if there is a prohibition on importing goods of that character e.g. because the goods contain prohibited materials such as ivory.
9. **Bidding.** Bidders will be required to register with us before the auction starts. We reserve the right to impose a deadline prior to the auction by which you must register or by which we must receive a commission bid. If you wish to bid on high value lots this deadline may be several days before the auction in order to allow us sufficient time to carry out the necessary checks. Lots will be invoiced to the name and address on the registration form. You will need to provide us with proof of your identity in a form acceptable to us and such other information as we may require. Please enquire in advance about our arrangements for telephone or online bidding. Please note that we may refuse to register you if you do not provide us with all the information and documentation that we ask for or at our discretion.
10. **Financial Checks.** As auctioneers we may have to conduct various checks into our customers under the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 and related legislation. Unless we confirm we already have this information, on registration you will be required to provide the following:
  - a. For individuals, official photo identification (driving licence, passport or equivalent) and proof of address (if this is not included in your ID document);
  - b. For corporate entities, the certificate of incorporation (or equivalent) with your official name, registered number (if any) and registered address, as well as details and ID documentation for directors and beneficial owners of the entity;
  - c. For trusts and estates, details and ID documentation for executors/trustees and details of beneficiaries; please contact us for further information.You may be asked for further information if we deem this necessary. If you are bidding for another person (your "Principal") you will be

required to provide the above information for yourself and your Principal, along with a signed letter from your Principal authorising you to bid.

Further information about ID requirements is available from [info@manderauctions.co.uk](mailto:info@manderauctions.co.uk). If we deem that you have not provided sufficient information for us to complete our anti-money laundering and terrorist financing checks to our satisfaction, we may refuse to register you to bid and we may postpone completion of or cancel any contract made by you and the Seller in the event you have made a successful bid.

11. **Commission bidding.** You may leave commission bids with us indicating the maximum amount to be bid against a lot (excluding the buyers' premium and/or any applicable VAT). We will execute commission bids as cheaply as possible having regard to the reserve (if any) and competing bids. If two buyers submit identical commission bids we may prefer the first bid received (where this can be reasonably ascertained). Please enquire in advance about our arrangements for the leaving of commission bids by telephone or email or via our website or online bidding platform.
12. **Methods of Payment.** We accept most cards or you may do a bank transfer. We do not accept cheques. For cash payments there is an upper limit of 15,000 euros equivalent.
13. **Collection and storage.** Please note what the Terms of Sale say about collection and storage. It is important that you pay for and collect goods promptly. Any delay may involve you having to pay storage charges or further terms may apply.

## TERMS OF SALE

**Both the sale of goods at our auctions and your relationship with us are governed by the Terms of Consignment (primarily applicable to sellers) the Terms of Sale (primarily applicable to bidders and buyers) and any notices displayed in the saleroom or announced by us at the auction (collectively, the "Conditions of Business"). The Terms of Consignment and Terms of Sale are available at our saleroom on request.**

**Please read these Terms of Sale carefully. Please note that if you register to bid and/or bid at auction this signifies that you agree to and will comply with these Terms of Sale.**

### 1 Definitions and interpretation

1.1 To make these Terms of Sale easier to read, we have given the following words a specific meaning:

<b>"Auctioneer"</b>	means Mander Auctioneers Ltd, a company registered in England and Wales with registration number 8389926 and whose registered office is located at The Auction Centre, Assington Road, Newton, Suffolk, CO10 0QX, or its authorised auctioneer, as appropriate;
<b>"Bidder"</b>	means a person participating in bidding at the auction;
<b>"Buyer"</b>	means the person who makes the highest bid for a Lot accepted by the Auctioneer;
<b>"Deliberate Forgery"</b>	means: (a) an imitation made with the intention of deceiving as to authorship, origin, date, age, period, culture or source; (b) which is described in the catalogue as being the work of a particular creator without qualification; and (c) which at the date of the auction had a value materially less than it would have had if it had been as described;
<b>"Hammer Price"</b>	means the level of the highest bid for a Lot accepted by the Auctioneer by the fall of the hammer;
<b>"Lot(s)"</b>	means the goods that we offer for sale at our auctions;
<b>"Money Laundering Regulations"</b>	means the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017, as amended;
<b>"Premium"</b>	means the premium that we will charge you on your purchase of a Lot to be calculated as set out in Clause 4;
<b>"Reserve"</b>	means the minimum hammer price at which a Lot may be sold;
<b>"Sale Proceeds"</b>	means the net amount due to the Seller;
<b>"Seller"</b>	means the persons who consign Lots for sale at our auctions;
<b>"Terms of Consignment"</b>	means the terms on which we agree to offer Lots for sale in our auctions

as agent on behalf of Sellers;

**“Terms of Sale”** means these terms of sale, as amended or updated from time to time;

**“Total Amount Due”** means the Hammer Price for a Lot, the Premium, any applicable artist’s resale right royalty, any VAT due and any additional charges payable by a defaulting buyer under these Terms of Sale;

**“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;

**“VAT”** means Value Added Tax or any equivalent sales tax; and

**“Website”** means our website available at [www.manderauctions.co.uk](http://www.manderauctions.co.uk)

In these Terms of Sale the words 'you', 'yours', etc. refer to you as the Buyer. The words “we”, “us”, etc. refer to the Auctioneer. Any reference to a ‘Clause’ is to a clause of these Terms of Sale unless stated otherwise.

## **2 Information that we are required to give to Consumers**

- 2.1 A description of the main characteristics of each Lot as contained in the auction catalogue.
- 2.2 Our name, address and contact details as set out herein, in our auction catalogues and/or on our Website.
- 2.3 The price of the Goods and arrangements for payment as described in Clauses 4, 5, 8 and 9.
- 2.4 The arrangements for collection of the Goods as set out in Clauses 9 and 10.
- 2.5 Your right to return a Lot and receive a refund if the Lot is a Deliberate Forgery as set out in Clause 14.
- 2.6 We and Trader Sellers have a legal duty to supply any Lots to you in accordance with these Terms of Sale.
- 2.7 If you have any complaints, please send them to us directly at the address set out on our Website.
- 2.8 We also refer you to our warranties as a Bidder and Buyer as set out in clause 6.

## **3 Bidding procedures and the Buyer**

- 3.1 You must register your details with us before bidding and provide us with any requested proof of identity and billing information, in a form acceptable to us (Paragraph 10 of the information for Buyers refers. You must also satisfy any security arrangements we have in place before entering the auction room to view or bid.
- 3.2 We strongly recommend that you attend the auction in person. You are responsible for your decision to bid for a particular Lot. If you bid on a Lot, including by telephone and online bidding, or by placing a commission bid, we assume that you have carefully inspected the Lot and satisfied yourself regarding its condition.
- 3.3 If you instruct us in writing, we may execute commission bids on your behalf. Neither we nor our employees or agents will be responsible for any failure to execute your commission bid, unless our failure to do so is unreasonable. Where two or more commission bids at the same level are recorded we have the right to prefer the first bid made (where this can be reasonably ascertained).
- 3.4 The Bidder placing the highest bid for a Lot accepted by the Auctioneer will be the Buyer at the Hammer Price. Any dispute about a bid will be settled at our discretion. We may reoffer the Lot during the auction or may settle the dispute in another way. We will act reasonably when deciding how to settle the dispute.
- 3.5 Bidders will be deemed to act as principals, even if the Bidder is acting as an agent for a third party.
- 3.6 We may bid on Lots on behalf of the Seller up to one bid below the Reserve.
- 3.7 We may refuse to accept any bid if it is reasonable for us to do so.
- 3.8 Bidding increments will be at our sole discretion (but will be in line with standard auction practice).

## **4 The purchase price**

As Buyer, you will pay:

- a. the Hammer Price;
- b. a premium of 27% of the Hammer Price. All bids submitted via live bidding at [manderauctions.co.uk](http://manderauctions.co.uk) incur an additional fee of 3.6% inc vat and bidders who signed up at [the-saleroom.com](http://the-saleroom.com) incur an additional fee of 5.94% inc VAT;

- c. any artist's resale right royalty payable on the sale of the Lot; and
- d. any VAT due.

## **5 VAT**

- 5.1 You shall be liable for the payment of any VAT applicable on the Hammer Price and premium due for a Lot. Please see the symbols used in the auction catalogue for that Lot and the "Information for Buyers" in our auction catalogue for further information.
- 5.2 We will charge VAT at the current rate at the date of the auction.

## **6 Buyer Warranties**

- 6.1 You warrant that the funds used for settlement 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.
- 6.2 Where you are bidding on behalf of another person, you warrant that:
  - 6.2.1 you have conducted appropriate customer due diligence on the ultimate buyer(s) of the Lot(s) in accordance with all applicable anti-money laundering and sanctions laws, you consent to us relying on this due diligence, and you will retain for a period of not less than 5 years the documentation evidencing the due diligence;
  - 6.2.2 You will make such documentation promptly available for immediate inspection by an independent third party auditor upon our written request to do so;
  - 6.2.3 the arrangements between you and the ultimate buyer(s) in relation to the Lot or otherwise do not, in whole or in part, facilitate tax crimes;
  - 6.2.4 you do not know, and have no reason to suspect, that the funds used for settlement are connected with, the proceeds of any criminal activity, including tax evasion, or that the ultimate buyer(s) are under investigation, or have been charged with or convicted of money laundering, terrorist activities or other crimes.

## **7 The contract between you and the Seller**

- 7.1 The contract for the purchase of the Lot between you and the Seller will be formed when the hammer falls accepting the highest bid for the Lot at the auction.
- 7.2 You may directly enforce any terms in the Terms of Consignment against a Seller to the extent that you suffer damages and/or loss as a result of the Seller's breach of the Terms of Consignment.
- 7.3 If you breach these Terms of Sale, you may be responsible for damages and/or losses suffered by a Seller or us. If we are contacted by a Seller who wishes to bring a claim against you, we may in our discretion provide the Seller with information or assistance in relation to that claim.
- 7.4 We normally act as an agent only and will not have any responsibility for default by you or the Seller (unless we are the Seller of the Lot).
- 7.5 In addition to any other rights we may have to cancel a contract for sale under these Terms of Sale, in the event:
  - 7.5.1 you are in breach of your warranties in clause 6; or
  - 7.5.2 we have not completed our enquiries pursuant to the Money Laundering Regulations and related legislation to our satisfaction; or
  - 7.5.3 we have reason to believe that the transaction might be unlawful for any reason, or that the sale might put us under any civil or criminal liability, we may delay completion of a sale, delay release of a Lot or cancel the sale of a Lot.

## **8 Payment**

- 8.1 Immediately following your successful bid on a Lot, and no later than 5pm on Monday following an auction, you will:
  - 8.1.1 give to us, if not already provided to our satisfaction, proof of identity in a form acceptable to us (and any other information that we require in order to comply with our anti-money laundering obligations – please refer to paragraph 10 of the Information for Buyers); and
  - 8.1.2 pay to us the Total Amount Due by card or bank transfer. For cash payments there is an upper limit of 15,000 euros equivalent.
- 8.2 If you owe us any money, we may use any payment made by you to repay these debts.

## **9 Title and collection of purchases**

- 9.1 While you are bound by the contract for the purchase of the Lot from the fall of the hammer on your successful bid, ownership in the Lot will not pass to you until:
- 9.1.1 you have paid us in full the Total Amount Due in cleared funds for that Lot;
  - 9.1.2 you have provided us with the information set out in clause 8.1.1; and
  - 9.1.3 we have completed our enquiries pursuant to the Money Laundering Regulations and related legislation.

You may not claim or collect a Lot until you have paid for it and ownership has passed to you.

- 9.1 Once you have paid us in full the Total Amount Due for any Lot, ownership of that Lot will transfer to you. You may not claim or collect a Lot until you have paid for it.
- 9.2 Unless notified otherwise, you will (at your own expense) collect any Lots that you have purchased and paid for either:

- 9.2.1 not later than one business day following the day of the auction; or
- 9.2.2 with prior agreement of the auctioneer, not later than two business days following the date that we have received payment of the Total Amount Due in cleared funds, if later.

- 9.3 If you do not collect the Lot within this time period, you will be responsible for any reasonable removal, storage and insurance charges in relation to that Lot, unless the delay was caused by our continuing investigations under Clause 7.5.2.

- 9.4 Risk of loss or damage to the Lot will pass to you when you (or your agents) take physical possession of the Lot.

- 9.5 If you do not collect the Lot that you have paid for within thirty days after the auction, we may sell the Lot. We will pay the proceeds of any such sale to you, but (unless the delay was caused by our continuing investigations under Clause 7.5.2) will deduct any storage charges or other sums that we have incurred in the storage and sale of the Lot. We reserve the right to charge you a selling commission at our standard rates on any such resale of the Lot.

## **10 Remedies for non-payment or failure to collect purchases**

- 10.1 Please do not bid on a Lot if you do not intend to buy it. If your bid is successful, these Terms of Sale will apply to you. This means that you will have to carry out your obligations set out in these Terms of Sale. If you do not comply with these Terms of Sale we may (acting on behalf of the Seller and ourselves) pursue one or more of the following measures:

- 10.1.1 take action against you for damages for breach of contract;
- 10.1.2 reverse the sale of the Lot to you and/or any other Lots sold by us to you;
- 10.1.3 resell the Lot by auction or private treaty (in which case you will have to pay any difference between the price you should have paid for the Lot and the price we sell it for as well as the charges outlined in Clause 9.5). Please note that if we sell the Lot for a higher amount than your winning bid, the extra money will belong to the Seller;
- 10.1.4 remove, store and insure the Lot at your expense;
- 10.1.5 if you do not pay us within two business days of your successful bid, we may charge interest at a rate not exceeding 1.5% per month on the total amount due;
- 10.1.6 keep that Lot or any other Lot sold to you until you pay the Total Amount Due;
- 10.1.7 reject or ignore bids from you or your agent at future auctions or impose conditions before we accept bids from you; and/or
- 10.1.8 if we sell any Lots for you, use the money made on these Lots to repay any amount you owe us.

- 10.2 We will act reasonably when exercising our rights under Clause 10.1. We will contact you before exercising these rights and try to work with you to correct any non-compliance by you with these Terms of Sale.

## **11 Health and safety**

Although we take reasonable precautions regarding health and safety, you are on our premises at your own risk. Please note the lay-out of the premises and security arrangements. Neither we nor our employees or agents are responsible for the safety of you or your property when you visit our premises, unless you suffer any injury to your person or damage to your property as a result of our, our employees' or our agents' negligence.

## **12 Warranties**

- 12.1 The Seller warrants to us and to you that:

- 12.1.1 the Seller is the true owner of the Lot for sale or is authorised by the true owner to offer and sell the lot at auction;

- 12.1.2 the Seller is able to transfer good and marketable title to the Lot to you free from any third party rights or claims; and
- 12.1.3 as far as the Seller is aware, the main characteristics of the Lot set out in the auction catalogue (as amended by any notice displayed in the saleroom or announced by the Auctioneer at the auction) are correct.
- 12.2 If, after you have placed a successful bid and paid for a Lot, any of the warranties above are found not to be true, please notify us in writing. Neither we nor the Seller will be liable to pay you any sums over and above the Total Amount Due and we will not be responsible for any inaccuracies in the information provided by the Seller except as set out below.
- 12.3 Please note that most of the Lots that you may bid on at our auction are second-hand and from private vendors.
- 12.4 If a Lot is not second-hand and you purchase the Lot as a Consumer from a Seller that is a Trader, a number of additional terms may be implied by law in addition to the Seller's warranties set out at Clause 12.1 (in particular under the Consumer Rights Act 2015). These Terms of Sale do not seek to exclude your rights under law as they relate to the sale of these Lots.
- 12.5 Save as expressly set out above, all other warranties, conditions or other terms which might have effect between the Seller and you, or us and you, or be implied or incorporated by statute, common law or otherwise are excluded.
- 13 Descriptions and condition**
- 13.1 Our descriptions of the Lot will be based on: (a) information provided to us by the Seller of the Lot (for which we are not liable); and (ii) our opinion (although it is likely that we will not be able to carry out a detailed inspection of each Lot).
- 13.2 We will give you a number of opportunities to view and inspect the Lots before the auction. You (and any independent consultants acting on your behalf) must satisfy yourself about the accuracy of any description of a Lot. We shall not be responsible for any failure by you or your consultants to properly inspect a Lot. Photographs displayed on our website may assist you, but should not be taken as a representation of condition.
- 13.3 Representations or statements by us as to authorship, genuineness, origin, date, age, provenance, condition or estimated selling price involve matters of opinion. We undertake that any such opinion will be honestly and reasonably held and accept liability for opinions given negligently or fraudulently.
- 13.4 Please note that Lots (in particular second-hand Lots) are unlikely to be in perfect condition. Lots are sold "as is" (i.e. as you see them at the time of the auction). Neither we nor the Seller accept any liability for the condition of second-hand Lots or for any condition issues affecting a Lot which the inspection of a Lot by the Buyer ought to have revealed.
- 14 Deliberate Forgeries**
- 14.1 You may return any Lot which is found to be a Deliberate Forgery to us within 21 days of the auction provided that you return the Lot to us in the same condition as when it was released to you, accompanied by a written statement identifying the Lot from the relevant catalogue description and a written statement of defects.
- 14.2 If we are reasonably satisfied that the Lot is a Deliberate Forgery we will refund the money paid by you for the Lot (including any Premium and applicable VAT) provided that if:
- 14.2.1 the catalogue description reflected the accepted view of experts as at the date of the auction; or
- 14.2.2 you personally are not able to transfer good and marketable title in the Lot to us,
- you will have no right to a refund under this Clause 14.2.
- 14.3 If you have sold the Lot to another person, we will only be liable to refund the price that you paid for the Lot. We will not be responsible for repaying any additional money you may have made from selling the Lot.
- 14.4 Your right to return a Lot that is a Deliberate Forgery does not affect your legal rights and is in addition to any other right or remedy provided by law or by these Terms of Sale.
- 15 Our liability to you**
- 15.1 We will not be liable for any loss of opportunity or disappointment suffered as a result of participating in our auction.
- 15.2 In addition to the above, neither we nor the Seller shall be responsible to you and you shall not be responsible to the Seller or us for any other loss or damage that any of us suffer that is not a foreseeable result of any of us not complying with the Conditions of Business. Loss or damage is foreseeable if it is obvious that it will happen or if at the time of the sale of the Lot, we, you and the Seller knew it might happen.
- 15.3 Subject to Clause 15.4, if we are found to be liable to you for any reason (including, amongst others, if we are found to be negligent, in breach of contract or to have made a misrepresentation), our liability will be limited to the total purchase price paid by you to us for any Lot.
- 15.4 Notwithstanding the above, nothing in these Terms of Sale shall limit our liability (or that of our employees or agents) for:

- 15.4.1 death or personal injury resulting from negligence (as defined in the Unfair Contract Terms Act 1977);
- 15.4.2 fraudulent misrepresentation; or
- 15.4.3 any liability which cannot be excluded by law.

## **16 Notices**

- 16.1 All notices between you and us regarding these Terms of Sale must be in writing and signed by or on behalf of the party giving it.
- 16.2 Any notice referred in Clause 16.1 may be given:
  - 16.2.1 by delivering it by hand;
  - 16.2.2 by first class pre-paid post or Recorded Delivery; or
  - 16.2.3 by email
- 16.3 Notices must be sent:
  - 16.3.1 by hand or registered post:
    - a. to us, at our address set out in these Terms of Sale or at our registered office address appearing on our Website; and
    - b. to you, at the last postal address that you have given to us as your contact address in writing; or
  - 16.3.2 by email:
    - a. to us, by sending the notice to the following email address:  
info@manderauctions.co.uk
    - b. to you, by sending the notice to any email address that you have given to us as your contact email address in writing.
- 16.4 Notices will be deemed to have been received:
  - 16.4.1 if delivered by hand, on the day of delivery;
  - 16.4.2 if sent by first class pre-paid post or Recorded Delivery, two business days after posting, exclusive of the day of posting; or
  - 16.4.3 if sent by email, at the time of transmission unless sent after 17.00 in the place of receipt in which case they will be deemed to have been received on the next business day in the place of receipt
- 16.5 Any notice or communication given under these Terms of Sale will not be validly given if sent by any form of messaging via social media or text message.

## **17 Data Protection**

We will hold and process any personal data in relation to you in accordance with our current privacy policy, a copy of which is available on request.

## **18 General**

- 18.1 We may, acting reasonably, refuse admission to our premises or attendance at our auctions by any person.
- 18.2 We act as an agent for our Sellers. The rights we have to claim against you for breach of these Terms of Sale may be used by either us, our employees or agents, or the Seller, its employees or agents, as appropriate. Other than as set out in this Clause, these Terms of Sale are between you and us and no other person will have any rights to enforce any of these Terms of Sale.
- 18.3 We may use special terms in the catalogue descriptions of particular Lots. You must read these terms carefully along with any glossary provided in our auction catalogues.
- 18.4 Each of the clauses of these Terms of Sale operates separately. If any court or relevant authority decides that any of them are unlawful, the remaining clauses will remain in full force and effect.
- 18.5 We may change these Terms of Sale from time to time, without notice to you. Please read these Terms of Sale carefully, as they may be different from the last time you read them.
- 18.6 Except as otherwise stated in these Terms of Sale, each of our rights and remedies are: (a) are in addition to and not exclusive of any other rights or remedies under these Terms of Sale or general law; and (b) may be waived only in writing and specifically. Delay in exercising or non-exercise of any right under these Terms of Sale is not a waiver of that or any other right. Partial exercise of any right under these Terms of Sale will not preclude any further or other exercise of that right or any other right under these Terms of Sale.

Waiver of a breach of any term of these Terms of Sale will not operate as a waiver of breach of any other term or any subsequent breach of that term.

- 18.7 These Terms of Sale and any dispute or claim arising out of or in connection with them (including any non-contractual claims or disputes) shall be governed by and construed in accordance with the laws of England and the parties irrevocably submit to the exclusive jurisdiction of the English courts.

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## TERMS OF CONSIGNMENT

**Both the sale of goods at our auctions and your relationship with us are governed by the Terms of Consignment (primarily applicable to sellers), the Terms of Sale (primarily applicable to bidders and buyers) and any notices displayed in the saleroom or announced by us at the auction (collectively, the "Conditions of Business"). The Terms of Consignment and Terms of Sale are available at our saleroom on request.**

**Please read these Terms of Consignment carefully. Please note that if you (or another person acting on your behalf) provide goods to us to sell on your behalf at our auction, this signifies that you agree to and will comply with these Terms of Consignment.**

**Please note that these Terms of Consignment relate to auctions held at our premises only.**

## 19 Definitions and interpretation

- 19.1 To make these Terms of Consignment easier to read, we have given the following words a specific meaning:

<b>"Auctioneer"</b>	means Mander Auctioneers Ltd, a company registered in England and Wales with registration number 8389926 and whose registered office is located at The Auction Centre, Assington Road, Newton, Suffolk, CO10 0QX, or its authorised auctioneer, as appropriate;
<b>"Bidder"</b>	means a person who places a bid for Goods at our auction;
<b>"Buyer"</b>	means the person who makes the highest bid for the Goods accepted by the Auctioneer;
<b>"Commission"</b>	means the commission that we charge you on the sale of the Goods as set out in Clause 5 below;
<b>"Consumer"</b>	means an individual acting for purposes which are wholly or mainly outside that individual's trade, business, craft or profession;
<b>"Consumer Contracts Regulations"</b>	means the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013;
<b>"Deliberate Forgery"</b>	means: (a) an imitation made with the intention of deceiving as to authorship, origin, date, age, period, culture or source; (b) which is described in the catalogue as being the work of a particular creator without qualification; and (c) which at the date of the auction had a value materially less than it would have had if it had been as described;
<b>"FCA"</b>	means the Financial Conduct Authority;
<b>"Goods"</b>	means the goods that you consign to us for sale at our auction;
<b>"Hammer Price"</b>	means the level of the highest bid for the Goods accepted by the Auctioneer by the fall of the hammer;
<b>"Money Laundering Regulations"</b>	means the Money Laundering Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 as amended;
<b>"Premium"</b>	means the premium charged to the Buyer on the sale of the Goods in accordance with the Terms of Sale;
<b>"Price"</b>	means the total of the Hammer Price, Premium and any applicable



VAT;

<b>“Proceeds”</b>	means the Price less the Commission, the Premium, any expenses incurred to your account and any applicable VAT;
<b>“Reserve”</b>	means the minimum price at which the Goods may be sold;
<b>“Seller”</b>	means the owner of the Goods and any agent who consigns the Goods for sale on the owner’s behalf (if applicable);
<b>“Terms of Consignment”</b>	means these terms of consignment;
<b>“Terms of Sale”</b>	means the terms of sale for bidders or buyers at our auctions;
<b>“Trader”</b>	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 (such as an agent and/or the Auctioneer);
<b>“VAT”</b>	means any value added tax or equivalent sales tax; and
<b>“Website”</b>	means our website available at <a href="http://www.manderauctions.co.uk">www.manderauctions.co.uk</a>

In these Terms of Consignment the words “you”, “yours”, etc. refer to the Seller. The words “we”, “us”, etc. refer to the Auctioneer. If the consignment of Goods to us is made by an agent we assume that you (as owner of the Goods) have authorised the consignment and authorised the agent to contract on your behalf. All obligations that apply to the Seller under these Terms of Consignment shall apply to the owner of the Goods and their agent, jointly and separately. Any reference to a ‘Clause’ is to a clause of these Terms of Consignment unless stated otherwise.

## **20 Information that we are required to give to Consumers**

- 20.1 A description of the main characteristics of the auction-related services that we are providing to you as set out in these Terms of Consignment or otherwise agreed with you in writing.
- 20.2 Our name, address and contact details as set out in these Terms of Consignment and/or on our Website.
- 20.3 The rate at which we will charge you the Commission plus any applicable VAT on the sale of the Goods as set out in Clause 23.
- 20.4 The fee that we will charge you plus any applicable VAT as set out in Clause 36 if either the Goods are unsold at auction or the Goods are withdrawn by you from the auction after the Goods have been catalogued and/or marketed by us prior to the auction in any way.
- 20.5 The arrangements for collection of any unsold Goods as set out in Clauses 36 and 38 and terms regarding payment of any Proceeds due to you set out in Clause 35.
- 20.6 If you have any complaints, please get in contact with us using the contact details set out on our website.

## **21 Procedure for consigning Goods for sale at auction**

- 21.1 If you consign Goods to us for sale at auction, you will need to provide us with the following information about you, in a form acceptable to us:
  - 21.1.1 Your legal name and proof of identity (as set out in Clause 20.2) and other information as we may require to conduct such checks under the Money Laundering Regulations as we deem necessary;;
  - 21.1.2 Information about the Goods (as set out in Clause 30);
  - 21.1.3 Your bank account details;
  - 21.1.4 Your address and contact details;
  - 21.1.5 Your VAT registration number (if applicable); and
  - 21.1.6 Your confirmation of whether you are selling the Goods as a Trader or as a Consumer.
- 21.2 We may have to conduct various checks into our customers under the Money Laundering Regulations and related legislation. In this regard we will require the following for the consignor of property to us:
  - 21.2.1 For individuals, official photo identification (driving licence, passport or equivalent) and proof of address (if this is not included in your ID document);
  - 21.2.2 For corporate entities, the certificate of incorporation (or equivalent) with your official name, registered number (if any) and registered address, as well as details and ID documentation for directors and beneficial owners of the entity;
  - 21.2.3 For trusts and estates, details and ID documentation for executors/trustees and details of beneficiaries; for further information

please contact us at [info@manderauctions.co.uk](mailto:info@manderauctions.co.uk).

21.3 If you do not provide us with, or we are not satisfied with, any of the above information, or other information we require for anti-money laundering and terrorist financing checks, we may refuse to accept consignment of your Goods for sale in our auction and we may postpone or cancel the contract for sale between you and a successful bidder.

21.4 You must provide the Goods to us by any stated deadline (at your expense). We may be able to assist you with this process but any liability incurred to a carrier for haulage charges is solely your responsibility.

## **22 The contract between you and the Buyer**

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

22.2 You may directly enforce any terms in the Terms of Sale against a Buyer and/or a 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 of Sale.

22.3 If you breach these Terms of Consignment, 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.

22.4 We normally act as an agent only and will not have any responsibility for default by you or the Buyer.

22.5 We may delay completion of, or cancel, any contract for sale where we have not completed our enquiries pursuant to the Money Laundering Regulations and related legislation to our satisfaction, or where we have concerns about the Buyer in relation to the Money Laundering Regulations and related legislation, or where we have reason to believe that the transaction might be unlawful for any reason, or that the sale might put us under any civil or criminal liability

## **23 Commission**

We will charge you a commission on the sale of the Goods calculated as a percentage of the Hammer Price at the following rates:

19.2% inc VAT

£3 inc VAT per lot, sold or unsold

## **24 Loss and Damage to Goods**

24.1 We are not authorised by the FCA to provide insurance to you. However, subject only to Clauses 24.3 and 24.4, we accept liability for Goods from the time we take possession of the Goods until the hammer falls.

24.2 Our liability for Goods is limited to our lower pre-sale estimate for the lot before the sale, or the Hammer Price if the lot has sold, or to the Reserve if the lot is unsold. This liability does not apply to motor vehicles, which must be covered by the vendor's own insurance policy.

24.3 The liability accepted by us in Clause 24.1 does not include any liability for loss or damage to the Goods that is caused by or results from: (i) any inherent vice or defect affecting the Goods; (ii) acts of God, flood, drought, earthquake or other natural disaster; (iii) acts of terrorism, civil commotion, riots or war; or (iv) nuclear, chemical or biological contamination.

24.4 If you (or your agent) instruct us in writing not to assume liability for Goods, the Goods remain entirely at your risk unless and until the Goods pass to the Buyer or are collected by you or on your behalf. In this case Clauses 24.1 - 24.3 will not apply.

## **25 Photographs**

You will pay for the cost of any photographs of your Goods produced for the auction catalogue. We reserve the right to photograph all Goods. The copyright in such photographs will be owned by us, along with the text of the auction catalogue.

## **26 Minimum bids and our discretion**

Some goods will be offered subject to a Reserve agreed between you and us before the auction in accordance with Clause 27. We may sell Goods below the Reserve provided that we account to you for the same sale proceeds as you would have received had the Reserve been the Hammer Price. Unless agreed with the auctioneer at the time of consignment, and agreed in writing on the consignment receipt, all reserves are subject to "discretion", which means we may accept a bid of up to 10% below the formal Reserve.

## **27 Reserves**

27.1 Reserves must be reasonable and may not exceed our lower pre-sale estimate for that lot. We may decline to offer Goods which, in our opinion, would be subject to an unreasonably high reserve (in which case the Goods are liable to fees of 10% + vat on the reserve and carry the storage and lotting charges set out in these Terms of Consignment). No reserves are accepted on items estimated at £50 or less.

27.2 Once we have agreed a Reserve, this cannot be changed except with your and our consent in writing.

27.3 Where a Reserve has been agreed only we may bid on your behalf and only up to one bid below the Reserve (if any) and you may in no circumstances bid personally or ask anyone else to bid on your behalf.

## **28 Electrical items**

28.1 You must test any electrical items that you wish to consign to us for sale using external contractors. The auctioneer may arrange for PAT testing to take place prior the auction, for which charges will apply. We will not accept any Goods that are not certified as safe by an electrician (unless they are antiques).

28.2 If we notify you that we will not accept uncertified electrical Goods, you must remove such Goods promptly at your expense following such notification. If you do not collect the Goods within seven days of our written notice to do so, we may dispose of the Goods at your expense.

## **29 Unsafe Goods**

If in our opinion any of your Goods, in particular those which are soft furnishings, infringe safety regulations, we will not offer these Goods for sale. You must remove such Goods at your expense. If you do not collect such Goods within seven days of our written notice to do so, we may dispose of the Goods at your expense.

## **30 Warranties and information about the Goods**

30.1 You must provide us with all information that you have relating to the provenance, export/import history, condition, attribution and authenticity of the Goods (and any additional information that may be relevant).

30.2 In addition to any warranties implied by law, you warrant to us and the Buyer that:

30.2.1 any information that you provide in relation to the Goods is complete, correct and up-to-date;

30.2.2 the Goods will match any description of the Goods that you provide to us;

30.2.3 as far as you are aware, the main characteristics of the Goods set out in the auction catalogue (as amended by any notice displayed in the saleroom or announced by us at the auction) are correct.

30.2.4 to the best of your knowledge, the Goods have been lawfully imported and lawfully and permanently exported as required by the laws of any country in which the Goods were located; required declarations upon the export and import of the Goods have been properly made; and any duties and taxes on the export and import of the Goods have been paid; and

30.2.5 you will pay all taxes and duties potentially due on the sale of the Goods.

30.3 You warrant that the Goods 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.

30.4 Where you are acting on behalf of another person, you warrant that:

29.4.1 you have conducted appropriate customer due diligence on the ultimate owner(s) of the Goods in accordance with all applicable anti-money laundering and sanctions laws, consent to us relying on this due diligence, and you will retain for a period of not less than 5 years the documentation evidencing the due diligence;

29.4.2 You will make such documentation promptly available for immediate inspection by an independent third party auditor upon our written request to do so;

29.4.3 the arrangements between you and the ultimate owner(s) in relation to the Goods or otherwise do not, in whole or in part, facilitate tax crimes; and

29.4.4 you do not know, and have no reason to suspect, that the Goods are connected with, the proceeds of any criminal activity, including tax evasion, or that the ultimate owner(s) are under investigation, or have been charged with or convicted of money laundering, terrorist activities or other crimes.

30.5 You must let us know promptly, and in any event before the auction, if you find out that the warranties in 29.3 and 29.4 above are incorrect and/or if any of the information you have provided to us relating to the Goods is incorrect or incomplete and/or if the Goods do not match the description that you provided to us or the main characteristics of the Goods set out in the auction catalogue.

30.6 Any information that you provide in relation to the Goods may form part of the contract between both of us and the Buyer and you acknowledge that the Buyer may have a statutory right to reject the Goods if the information provided is incorrect.

30.7 If we have to refund the price of any Goods to the Buyer due to the Goods being a Deliberate Forgery, you must promptly, and in any event within seven days, reimburse to us any Proceeds that we have transferred to you for those Goods following receipt of our written notice requesting you to do so.

## **31 Transfer of ownership of the Goods**

You warrant and undertake to us and the Buyer that you are the true owner of the Goods (or are properly authorised by the true owner to sell the Goods on the owner's behalf) and you currently have and will have the right to sell the Goods to the Buyer with good and marketable title free of any third party rights or claims at the time when ownership of the Goods is to be transferred.

### **32 Indemnity**

You will indemnify and keep us fully indemnified against any and all liability, loss, damage, costs (including reasonable legal fees and any VAT in relation to such fees) and expenses which we may incur or suffer as a result of any breach of Clauses 30 or 31 by you or anyone acting on your behalf, including without limitation, if we are required to refund the price of any Goods to the Buyer as a result of your breach of these clauses.

### **33 Terms of Sale**

You agree that the Goods will be sold to the Buyer in accordance with our Terms of Sale, a copy of which will be displayed in the saleroom and printed in our auction catalogue.

### **34 Authority to deduct commission and expenses and retain premium and interest**

You authorise us to deduct our Commission at the stated rate and all expenses incurred on your account from the Hammer Price, plus any applicable VAT. You consent to our right to charge the Buyer and retain beneficially the Premium plus any applicable VAT paid by the Buyer in accordance with our Terms of Sale and any interest earned on the sale proceeds until the date of settlement.

### **35 Settlement**

- 35.1 Provided that the Buyer has paid for the Goods and we have completed necessary checks under the Money Laundering Regulations, we will usually pay the net sum due to you within thirty days of the last day of the auction (by crossed cheque to the seller).
- 35.2 If the Buyer has not paid for the Goods, 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 10 of our Terms of Sale in relation to a Buyer's failure to pay. We will not release the Goods to the Buyer until we have received payment in full of the Price for the Goods and have completed necessary checks under the Money Laundering Regulations.
- 35.3 You must notify us in writing if your address or bank account details change. We will not be responsible for any payments made to the incorrect address or bank account if this is because you have not provided us with the correct details.
- 35.4 If we make payments to your bank account in error, we may request reimbursement by sending you an invoice.
- 35.5 We may deduct any sums that you owe to us from the Proceeds.

### **36 Unsold and withdrawn items**

- 36.1 If the Goods are unsold at auction, you authorise us to negotiate a sale by private treaty not later than the close of business two days following the last day of the auction. In this case you will pay to us the same charges as if such Goods had been sold at auction and, so far as appropriate, these Terms of Consignment will apply to any such sale.
- 36.2 In addition to Clause 36.1, we may re-offer unsold Goods at a future auction without reserve (or by private treaty thereafter as set out in Clause 36.1 above) but we may recommend a variation in estimates. Where, in our opinion, Goods are unsaleable, we will notify you and you must collect such Goods from the saleroom within seven days of the date of our notice to do so. If you fail to collect such Goods promptly, we may charge you reasonable storage charges at a daily rate of £2 + VAT per lot per day.
- 36.3 You will pay us a charge of £3 inc VAT on any Goods that are unsold at the auction and fail to sell by private treaty as described in Clause 36.1.
- 36.4 You will pay us a charge of 10 % of the Reserve/ lower estimate for the lot, or a minimum of £10 plus VAT, on any Goods that are withdrawn from the auction after being catalogued and/or marketed by us prior to the auction in any way.

### **37 Withdrawal of the Goods by us**

- 37.1 We may (acting reasonably) at our discretion at any time withdraw your Goods from our auction:
  - 37.1.1 for legal, reputational or operational reasons (including if you fail to provide evidence to verify your identity or your title to the Goods to our satisfaction);
  - 37.1.2 if we reasonably believe that you may be, or are about to be, in breach of these Terms of Consignment; or
  - 37.1.3 if we reasonably believe the Goods to be a Deliberate Forgery.

### **38 Warehousing**

- 38.1 We have no liability for Goods that you deliver to our saleroom without prior notice or sufficient sale instructions. We reserve the right to charge you a minimum warehousing charge of £2 per lot per day, plus VAT.

38.2 Unsold and withdrawn Goods will be subject to the charges set out in Clause 38.1 above if you do not remove them within seven days of the date of our notification requesting you to do so.

38.3 If you do not remove your unsold or withdrawn Goods before the date of the following auction we may either: (a) sell such Goods and set off charges from any net proceeds of sale; or (b) at your expense dispose of such Goods.

### **39 Our liability to you**

39.1 We will not be liable to you for any loss of opportunity or disappointment suffered as a result of participating in our auction.

39.2 In addition, neither we nor the Buyer shall be responsible to you and you shall not be responsible to the Buyer or us for any other loss or damage that any of us suffer that is not a foreseeable result of any of us not complying with the Conditions of Business. Loss or damage is foreseeable if it is obvious that it will happen or if at the time of the sale of the Lot, we, you and the Seller knew it might happen.

39.3 Subject to Clause 39.4, if we are found to be liable to you for any reason (including, amongst others, if we are found to be negligent, in breach of contract or to have made a misrepresentation), our liability will be limited to the Proceeds due for the Goods if sold or the Reserve if unsold.

39.4 Notwithstanding the above, nothing in these Terms of Consignment limits the liability of us or our employees or agents for:

39.4.1 death or personal injury resulting from negligence (as defined in the Unfair Contract Terms Act 1977);

39.4.2 fraudulent misrepresentation; or

39.4.3 any liability which cannot be excluded by law.

### **40 Notices**

40.1 All notices between you and us regarding these Terms of Consignment must be in writing and signed by or on behalf of the party giving it.

40.2 Any notice referred in Clause 40.1 may be given:

40.2.1 by delivering it by hand;

40.2.2 by first class pre-paid post or Recorded Delivery; or

40.2.3 by email

40.3 Notices must be sent:

40.3.1 by hand or registered post:

a. to us, at our address set out in these Terms of Consignment or at our registered office address appearing on our Website; and

b. to you, at the last postal address that you have given to us as your contact address in writing.

40.3.2 by email:

a. to us, by sending the notice to both the following email addresses:

info@manderauctions.co.uk

b. to you, by sending the notice to any email address that you have given to us as your contact email address in writing.

40.4 Notices will be deemed to have been received:

40.4.1 if delivered by hand, on the day of delivery; or

40.4.2 if sent by first class pre-paid post or Recorded Delivery, two business days after posting, exclusive of the day of posting; or

40.4.3 if sent by email, at the time of transmission unless sent after 17.00 in the place of receipt in which case they will be deemed to have been received on the next business day in the place of receipt

40.5 Any notice or communication given under these Terms of Consignment will not be validly given if sent by any form of messaging via social media or text message.

### **41 Data Protection**

We will hold and process any personal data in relation to you in accordance with our current privacy policy, a copy of which is available on request.

### **42 General**

42.1 Each of the clauses of these Terms of Consignment operates separately. If any court or relevant authority decides that any of them are unlawful, the remaining clauses will remain in full force and effect.

42.2 We may change these Terms of Consignment from time to time, without notice to you. Please read these Terms of Consignment carefully, as they may be different from the last time you read them.

42.3 Except as otherwise stated in these Terms of Consignment, each of our rights and remedies: (a) are in addition to and not exclusive of any other rights or remedies under these Terms of Consignment or general law; and (b) may be waived only in writing and specifically.

Delay in exercising or non-exercise of any right under these Terms of Consignment is not a waiver of that or any other right. Partial exercise of any right under these Terms of Consignment will not preclude any further or other exercise of that right or any other right under these Terms of Consignment. Waiver of a breach of any term of these Terms of Consignment will not operate as a waiver of breach of any other term or any subsequent breach of that term.

42.4 These Terms of Consignment are between you and us. No person other than you, the Buyer or us will have any rights to enforce any of these Terms of Consignment.

42.5 These Terms of Consignment and any dispute or claim arising out of or in connection with them (including any non-contractual claims or disputes) shall be governed by and construed in accordance with the laws of England and the parties irrevocably submit to the exclusive jurisdiction of the English courts.