

**TERMS & CONDITIONS OF AUCTION BUSINESS with Lincolnshire's Auctioneers**

**USER'S INTRODUCTION**

1. As is widely recognised, modern consumer protection law, whether it stems from the UK or the EU, is having a steadily increasing impact on the sale of chattels by auction. Furthermore, the Unfair Terms in Consumer Contracts Regulations 1994 apply to auction sales and lay down an indicative, non-exhaustive, list of standard terms which may be regarded as unfair and therefore not binding on the consumer. These regulations also stipulate that contractual terms shall be expressed 'in plain, intelligible language'.

2. The auctioneer meets possible consumers at two points. **Firstly**, the seller is a consumer of the auctioneers services.

**Secondly**, buyers, though not primarily contracting with the auctioneer, who is merely an agent for the seller, nevertheless normally contract on standard conditions laid down by the auctioneer as agent. Some of these conditions create a direct contract between buyer and auctioneer.

3. The opportunity has therefore been taken to create the most up-to-date 'Conditions of Business' taken from the 'model' provided by the Royal Institution of Chartered Surveyors by consultation with the Office of Fair Trading. It is designed to reflect the law at the start of the new millennium and provide what protection is reasonable for the seller, the auctioneer and the buyer in respect of duties and liabilities arising in the numerous transactions which take place throughout England and Wales. The authors had in mind general and specialised sales of chattels, including fine art.

4. The two primary documents are the 'Terms of consignment for sellers' and the 'Conditions of sale'. Many auction houses have hitherto made little attempt to separate these two fundamental documents and essentially use one set of conditions of sale with a short further document for vendors. It is, of course, essential that sellers are aware of and consider themselves bound by the relevant conditions of sale. If it were not so, the auctioneer would have no authority, for example, to give to buyers the benefit of any anti-forgery clause.

Nevertheless, the two transactions between seller and auctioneer and seller and buyer are completely distinct contracts and we have therefore placed considerable importance on using the expression 'Terms of consignment' for sellers and other consignors when before the auction takes place they consign the relevant property for sale, and 'Conditions of sale' for transactions which actually take place by auction.

5. Finally, it is of course essential that buyers and sellers are bound by relevant conditions. It is customary to print conditions of sale in catalogues and/or clearly display them in the showroom before the auction sale takes place. Similarly, sellers should preferably be supplied with a printed version of the 'Terms of consignment' when consigning property for sale. The golden rule is that all parties should have notice of the relevant terms and conditions before or at the time of the making of the contract.

## **INFORMATION FOR BUYERS**

1. **Introduction:** The following informative notes are intended to assist Buyers, particularly those inexperienced or new to our salerooms. All sales are conducted on our printed 'Conditions of sale' which are readily available for inspection and normally accompany catalogues. Our staff will be happy to help you if there is anything you do not fully understand.
2. **Agency:** As auctioneers we usually contract as agents for the seller whose identity, for reasons of confidentiality, is not normally disclosed. Accordingly, if you buy your primary contract is with the seller.
3. **Estimates:** Estimates are designed to help buyers gauge what sort of sum might be involved for the purchase of a particular lot. The lower estimate may represent the reserve price and certainly will not be below it. Estimates do not include the buyer's premium or VAT (where chargeable). Estimates are prepared some time before the sale and may be altered by announcement before the sale. They are in no sense definitive and are subject to constant revision.
4. **Buyers premium:** The 'Conditions of sale' oblige buyers to pay a buyer's premium at **17.5%** on the hammer price of each lot purchased with a minimum of £1 per lot. In the case of lots purchased 'Live Webcast' through an internet bidding platform this will be charged at **22.5%** on the hammer price. In addition, VAT is payable on this premium (see below). To clarify, bidding live webcast auctions are NOT sales governed by Distance Selling Regulations – you were given the opportunity to view, even if you did not.
5. **VAT:** An asterisk (\*) indicates that VAT is payable by the purchaser at the standard rate imposed by current UK law on the hammer price as well as being an element in the buyer's premium, lots are noted in the saleroom by a red dot on the lot number. 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 on importation into the UK. The double symbol (\*\*) indicates that the lot has been imported from outside the European Union and the present position is that these lots are liable to a reduced rate of VAT on the gross lot price (i.e. both the hammer price and the buyer's premium). Lots which appear without either of the above symbols indicate that no VAT is payable on the hammer price. This is because such lots are sold using the Auctioneers' Margin Scheme and it should be noted that the VAT included within the premium is not recoverable as input tax. (VAT rates are changing with frequency, please check with HMRC. VAT will be charged as set by Government at the time of sale.)
6. **Condition and description of lots.** We are primarily, agents for the seller. We are dependent on information provided by the seller and whilst we may inspect lots and act reasonably in taking a general view about them we are normally unable to carry out a detailed or any examination of lots in order to ascertain their condition in the way in which it would be wise for a buyer to do. Intending buyers have ample opportunity for inspection of goods and, therefore, accept responsibility for inspecting and investigating lots in which they may be interested. Please note carefully the exclusion of liability for the condition of lots contained in the 'Conditions of sale'. Neither the seller nor we, as the auctioneers, accept any responsibility for their condition. In particular, mechanical objects of any age are not guaranteed to be in working order.  
  
However, in so far as we have examined the goods and make a representation about their condition, we shall be liable for any defect which that examination ought to have revealed to the auctioneer but which would not have been revealed to the buyer had the buyer examined the goods. Additionally, in specified circumstances lots misdescribed because they are 'deliberate forgeries' may be returned and repayment made. There is a 21 day time limit from the date of sale, not date of collection or receipt. (The expression 'deliberate forgery' is defined in our 'Conditions of sale').
7. **Electrical goods:** Items are tested by a qualified electrician for SAFETY ONLY. An item that passes the PAT safety test may not work. Conversely, an item that fails the test may work with just minor repair. 'Working Order' and 'Safe' are two completely different concepts. The only thing you may take for granted is that the item will be safe at the point of sale. Items that have failed will have their cabling cut to source, labelled and sold 'For Trade Only'. To use the object you will have to change it radically from what was sold to you. Therefore, the Auctioneers cannot be held responsible after the point of sale. Those items sold genuinely as 'antiques or collectables' will not have been tested and if bought for use must be checked over for compliance with safety regulations by a qualified electrician before use. This is an express condition.
8. **Export of goods:** Buyers intending to export goods should ascertain (a) whether an export licence is required and (b) whether there is any specific prohibition on importing goods of that character because, e.g. they may contain prohibited materials such as ivory. Ask us if you need help.

9. **Bidding in person:** Some form of identification with proof of address will be required if you are unknown to us. Bidders may be required to register before the sale commences and lots will be invoiced to the name and address on the registration form. Account transfers will not be recognised or facilitated under any circumstances.
10. **Absentee bidding:** Commission bids may be left with the auctioneers indicating the maximum amount to be bid excluding buyers' premium. They will be executed as cheaply as possible having regard to the reserve (if any) and competing bids. If two buyers submit identical commission bids, the auctioneers may prefer the first bid received. If there are genuine reasons why you are unable to leave a Commission Bid and you wish to bid by telephone we may accommodate on lots where your opening bid will be £500 or above. There are inherent dangers with this practice; therefore all arrangements shall be entirely at the bidder's risk. Absentee bid instructions must be received by telephone, fax or email 12 hours prior to the sale.

**11. Methods of payment:**

Accounts are due for settlement SALEDAY. The following methods of payment are acceptable.

There will be NO EXCEPTIONS to this policy. To avoid undue embarrassment for yourself or our staff, please do not ask for preferential treatment.

- i. **Cash.** Single payments up to £10,000 only.
- ii. **Debit Card.** No limit with chip & pin. (CNP limit £500).
- iii. **Credit Card.** (Fee of 2%+vat) No limit with chip & pin. (CNP limit £500).
- iv. **Bank Drafts & Building Society Cheques.** No limit. Due to forgeries, we will retain the goods for 3 working days to establish clearance of funds.
- v. **Cheques.** Accepted up to the limit of the guarantee card for immediate clearance. For sums exceeding this, and you are not known to the auctioneers, we will retain the goods for 7 working days to establish clearance of funds.
- vi. **Bank Transfer for Bourne Auctions.** Payments to Golding Young Limited - Auction Clients Account – Bourne.  
40-22-19 22034859. HSBC, 88 Westgate, Grantham NG31 6LF.  
Swift Code MIDLGB22. IBAN is . GB56MIDL40221922034859
- vii. **Bank Transfer for Grantham Auctions.** Payments to Golding Young Limited - Auction Clients Account – Grantham.  
40-22-19 13666891. HSBC, 88 Westgate, Grantham NG31 6LF.  
Swift Code MIDLGB22. IBAN is GB76MIDL40221913666891.
- viii. **Bank Transfer for Lincoln Auctions.** Payments to Golding Young Limited - Auction Clients Account - Lincoln.  
40-22-19 33667200. HSBC, 88 Westgate, Grantham NG31 6LF.  
Swift Code MIDLGB22. IBAN is GB45MIDL40221933667200.

**Bank Transfer payment types, codes and clearance times:**

BACS – code BP = cleared funds on the 4<sup>th</sup> day.

EFT or CHAPS – code CR + ADVICE CONFIRMS = cleared funds after 24hrs.

If early release of goods is requested our staff will ring HSBC to confirm guaranteed cleared funds.

12. **Collection and storage:** Goods can be collected as soon as they are paid for and within two working days following the sale. If goods remain with us and we have no contrary written advice of your intentions the items will be moved to storage and reasonable labour charges levied and storage at the rate of £2+vat per lot per day thereafter for small items (1 person safe carry) and £10+vat per lot per day for furniture and large items (2 person safe carry). This satisfies the requirements of the Consumer Rights Bill (2014)..
13. **Late payment penalties:** An account remaining outstanding after 7 days will have a £20+vat administration charge applied. **We require payment to terms. Payment must be made on time, in full, and without any deduction, set off or counterclaim. In the event that an account is outstanding after 14 days, we will refer the matter to our debt collection agents, Daniels Silverman Limited, which will incur a surcharge of 20% of the debt, plus VAT at the prevailing rate. You agree that you will be legally liable to pay us that surcharge, and that payment of the same can be enforced against you in court. You also agree to pay interest at the relevant reference rate provided for under the Late Payment of Commercial Debts (Interest) Act 1998, which interest is payable both after and before any judgment of the court and continues to accrue.**

## **TERMS OF CONSIGNMENT FOR SELLERS**

1. **Interpretation:** In these terms the words 'you', 'yours', etc. refer to the seller and if the consignment of goods to us is made by an agent we assume that the seller has authorised the consignment and that the consignor has the seller's authority to contract. Similarly, the words 'we', 'us', etc. refer to the auctioneers.
2. **Commission:** is charged to sellers at **15%+vat**,  
Minimum Fees per Sold lot apply of £4+vat.  
**Minimum Fees per Unsold lot are; Live Webcast Sales £8 +vat & all others £4 +vat.**
3. **Removal costs:** Items for sale must be consigned to the saleroom by any stated deadline and 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.
4. **Illustrations:** If we consider that the lot should be illustrated we will do so. Illustrations on the internet are Free. Illustrations in a printed catalogue are £12.50+vat per lot. Higher value lots (£1,000+) may be illustrated at £50+vat per quarter of a page. Illustrations used in specialist publications will be charged at cost. The copyright in respect of such illustrations shall be the property of us, the auctioneers, as is the text of the catalogue.
5. **Minimum bids and our discretion:** All goods are put up for sale WITHOUT RESERVE but at the Auctioneer's Discretion unless written instructions as to reserves are received at least 48 hours prior to the commencement of the sale. The minimum reserve acceptable is £30. If it is not worth that it really should not have a reserve. Reserved goods will normally be offered subject to agreed figures between us before the sale in accordance with clause 6 and unilaterally by ourselves at the time of sale in circumstances the auctioneer feels necessary to protect your interests. We may sell lots below the reserve provided we account to you for the same sale proceeds as you would have received had the reserve been the hammer price. If you specifically give us 'discretion' we may accept a bid of up to 10% below the formal fixed reserve.
6. **Reserves & Estimates:**
  - (a) You are entitled to place prior to the auction a reserve on any lot consigned, being the minimum hammer price at which that lot may be sold. Reserves must be reasonable and we may decline to offer goods, which in our opinion would be subject to an unreasonably high reserve (in which case goods carry the storage and insurance charges stipulated in these 'Terms of consignment').
  - (b) A reserve once set cannot be changed upwards except with our consent.
  - (c) Where a reserve has been placed only we may bid on your behalf and only up to the reserve (if any) and you may in no circumstances bid personally.
  - (d) Estimates are not Reserves. Estimates are given as a guide to buyers. Unreserved items may sell at a fraction of an estimate if no reserve has been agreed.
7. **Electrical items:** These are subject to detailed statutory safety controls. Where such items are accepted for sale you accept responsibility for the cost of testing by external contractors. We reserve the right to dispose of unsafe goods as refuse, at your expense and without further reference to the vendor. Test fees start at £5+vat per item.
8. **Soft furnishings:** The sale of soft furnishings is strictly regulated by statute law in the interests of fire safety. Goods found to infringe safety regulations will not be offered and must be removed at your expense. We reserve the right to dispose of unsafe goods as refuse, at your expense and without further reference to the vendor. The minimum fee is £20+vat per item.

The rights of disposal referred to in clause 7 and 8 are subject to the provision of the Torts (Interference with Goods) Act 1977, Schedule 1, a copy of which is available for inspection on request.

9. **Descriptions:** Please assist us with accurate information as to the provenance etc. of goods where this is relevant. There is strict liability for the accuracy of descriptions under modern consumer legislation and in some circumstances responsibility lies with sellers if inaccuracies occur. We will assume that you have approved the catalogue description of your lots unless informed to the contrary. Where we are obliged to return the price to the buyer when the lot is a deliberate forgery under Condition 15 of the 'Conditions of sale' and we have accounted to you for the proceeds of sale you agree to reimburse us the sale proceeds. The liability to reimburse the sale proceeds shall not arise where you are acting reasonably and honestly and are unaware of the forgery but we are or ought to have been aware of it.

- 10. Unsold and withdrawn items:** If a reserved item is unsold it will be re-offered (sometimes within 7 days and without notice) and the reserve will be lowered by 30% each time of entry. Lots will be re-offered until sold or collected. Where in our opinion an item is unsaleable you must collect such items from the saleroom promptly on being so informed. Otherwise, storage charges will be incurred. If goods remain with us and we have no contrary written advice of your reasonable intentions, the items will be moved to storage and reasonable labour charges levied and storage at the rate of £2+vat per lot per day thereafter for small items and £10+vat per lot per day for furniture and large items. If any item(s) is un-saleable by virtue of failing to attract a bid we will have absolute discretion to dispose of that item and charge for the service. (See Term 8 for specifics and charges).
- 11. Withdrawn and bought in items:** Once an item has been entered for sale should you choose to withdraw it (pre or post sale) you will be liable to incur a charge of 15% +vat on being bought in or withdrawn after being catalogued. This will be based on any reserve set or lower estimate we would apply..
- 12. Conditions of sale:** You agree that all goods will be sold on our 'Conditions of sale'. In particular you undertake that you have the right to sell the goods either as owner or agent for the owner. You undertake to compensate us and any buyer or third party for all losses, liabilities and expenses incurred in respect of and as a result of any breach of this undertaking.
- 13. Authority to deduct commission and expenses and retain premium and interest:**
- (a) You authorise us to deduct commission at the stated rate and all expenses incurred for your account from the hammer price and consent to our right to retain beneficially the premium paid by the buyer in accordance with our 'Conditions of sale' and any interest earned on the sale proceeds until the date of settlement.
  - (b) You authorise us in our discretion to negotiate a sale by private treaty in the case of lots unsold at auction while they remain on our premises, in which case the same charges will be payable as if such lots had been sold at auction and so far as appropriate these terms apply.
- 14. Warehousing:** We disclaim all liability for goods delivered to our saleroom without sufficient sale instructions, and reserve the right to make minimum warehousing charge of £2 per lot per day for small items and £10 per day for furniture and large items. Unsold lots are subject to the same charges if you do not remove them within a reasonable time of notification. If not removed within three weeks we reserve the right to sell them and defray charges from any net proceeds of sale or at your expense to consign them to the local authority or in-house skip for disposal.
- 15. Settlement:** After sale settlement of the net sum due to you normally takes place after 21 days and within 28 days of the sale (by crossed cheque to the seller) unless the buyer has not paid for the goods. In this case no settlement will then be made but we will take your instructions in the light of our 'Conditions of sale'.
- You authorise any sums owed by you to us on other transactions to be deducted from the sale proceeds. You must note the liability to reimburse the proceeds of sale to us as under the circumstances provided for in Condition 9 above. You should therefore bear this potential liability in mind before parting with the proceeds of sale until the expiry of 28 days from the date of sale.
- 16. Loss & Damage of Goods:** Golding Young Limited is not authorised by the FSA to provide insurance to clients, and does not so do. However Golding Young Limited for its own protection assumes liability for property consigned to it at the lower pre-sale estimate until the hammer falls. To justify accepting liability Golding Young Limited makes a charge for this. Unless otherwise instructed in writing, all goods on our premises and in our custody will be held insured against the risks of fire, theft following forcible entry and water damage (but not against accidental breakage or damage) for which we will make a service charge at a premium of £1.50 per £100 (minimum 10p). The value of the goods to be covered shall be the gross amount realised, or in the case of unsold lots the best bid, or in the case of goods withdrawn prior to a sale that which the specialised staff of ours shall in their absolute discretion estimate to be the auction value of such goods.
- We shall not be responsible for damage to or the loss, theft or destruction of any goods not so insured upon the owner's written instructions.
  - We shall not be responsible for accidental breakage, loss or damage howsoever caused, unless directly caused by negligence of their employees.
  - In respect of any article delivered to us if the vendor has in force a policy or policies of insurance in which is specifically mentioned as being insured, whether or not for any agreed sum or value, the vendor shall notify his insurers of and shall himself note our interest as bailee in such policy or policies.

- 17. Ownership & Indemnity:** The vendor declares that the goods entered are their unencumbered property and that they are free from any hire purchase or financial agreement. The vendor shall duly indemnify us against any claims in connection with any goods sold by us on the vendor's behalf.
- 18. Value Added Tax:** A vendor who sends for sale by auction any chattel(s) which is an asset of business must disclose to us whether or not [s]he has a registered VAT number, and thus the number. This information must be supplied to the Auctioneer on or prior to delivery of goods.
- 19. Clients' money:** You are advised that all clients' money is held in the following accounts with HSBC, 88 Westgate, Grantham, Lincs. NG31 6LF

**Golding Young Limited - Auction Clients Account (Bourne)**  
**Sort Code 40-22-19 Account 22034859**

**Golding Young Limited - Auction Clients Account (Grantham)**  
**Sort Code 40-22-19 Account 13666891**

**Golding Young Limited - Auction Clients Account (Lincoln)**  
**Sort Code 40-22-19 Account 33667200.**

Both are low interest bearing accounts. The interest will be retained by the auctioneers and is used to reduce bank costs helping us to continue offering competitive selling fees. Cheques under £50 not banked within six months of issue may be paid to our nominated charity without further notice.

- 20. Complaints.** We operate a Complaints Handling procedure as we are Regulated by RICS. Available by request.

## **CONDITIONS OF SALE**

Golding Young Limited (GYL) carries on business with bidders, buyers and all those present in the auction room prior to or in connection with a sale on the following General Conditions and on such other terms, conditions, and notices as may be referred to herein.

### **1. Definitions:** In these conditions:

- (a) 'Auctioneer' means the firm of (GYL) or its authorised auctioneer, as appropriate.
- (b) 'Deliberate forgery' means an imitation made with the intention of deceiving as to authorship, origin, date, age, period, culture or source but which is unequivocally described in the catalogue as being the work of a particular creator and which at the date of the sale had a value materially less than it would have had if it had been in accordance with the description.
- (c) 'Hammer price' means the level of bidding reached (at or above any reserve) when the auctioneer brings down the hammer.
- (d) 'Terms of consignment' means the stipulated terms and rates of commission on which (GYL) accepts instructions from sellers or their agents.
- (e) 'Total amount due' means the hammer price in respect of the lot sold together with any premium, Value Added Tax chargeable and any additional charges payable by a defaulting buyer under these conditions.
- (f) 'Sale proceeds' means the net amount due to the seller, being the hammer price of the lot sold less commission at the stated rate, Value Added Tax chargeable and any other amounts due to us by the seller in whatever capacity and however arising.
- (g) 'You', 'Your', etc. refer to the buyer as identified in Condition 2.
- (h) The singular includes the plural and vice versa as appropriate.

### **2. Bidding procedures and the buyer:**

- (a) Bidders are required to register their particulars before bidding and to satisfy any security arrangements before entering the auction room to view or bid.
- (b) The maker of the highest bid accepted by the auctioneer conducting the sale shall be the buyer at the hammer price and any dispute about a bid shall be settled at the auctioneer's absolute discretion by re-offering the lot during the course of the auction or otherwise. The auctioneer shall act reasonably in exercising this discretion.
- (c) Bidders shall be deemed to act as principals.

Our right to bid on behalf of the seller is expressly reserved up to the amount of any reserve and the right to refuse any bid is also reserved.

### **3. Increments:** Bidding increments shall be at the auctioneer's sole discretion.

### **4. The purchase price:** The buyer shall pay the hammer price together with a premium thereon of **17.5%** (minimum £1 per lot). In the case of lots purchased 'Live Webcast' through an internet bidding platform this will be charged at **22.5%** (minimum £1 per lot) on the hammer price which shall exclude VAT on the premium at the rate imposed by law.

### **5. Value Added Tax:** VAT on the hammer price is imposed by law on all items listed with an asterisk or double asterisk or marked with a red dot on the lot number. VAT is charged at the appropriate rate prevailing by law at the date of sale and is payable by buyers of relevant lots. (Please refer to 'Information for buyers' for a brief explanation of the VAT position).

**6. Payment:**

- (1) Immediately a lot is sold you will:
  - (a) give to us, if requested, proof of identity, and
  - (b) pay to us the total amount due in cash or in such other way as is agreed by us.
- (2) Any payments by you to us may be applied by us towards any sums owing from you to us on any account whatever without regard to any directions of you or your agent, whether express or implied.

**7. Title and Collection of purchases:**

- (1) The ownership of any lots purchased shall not pass to you until you have made payment in full to us of the total amount due of all lots on your account. You are responsible for insurance and risk of all lot purchases at the fall of the hammer.
- (2) You shall at your own risk and expense collect any lots that you have purchased and paid for not later than three working days following the day of the auction or upon the clearance of any cheque used for payment (if later) after which you shall be responsible for any collection, storage and insurance charges.
- (3) No purchase may be collected and we shall not release any lot to you or your agent until it has been paid for.

**8. Remedies for non-payment or failure to collect purchases:**

- (1) If any lot is not paid for in full and taken away in accordance with these conditions or if there is any other breach of these conditions, we, as agent for the seller and on our own behalf, shall at our absolute discretion and without prejudice to any other rights we may have, be entitled to exercise one or more of the following rights and remedies:
  - (a) To proceed against you for damages for breach of contract.
  - (b) To rescind the sale of that lot and/or any other lots sold by us to you.
  - (c) To resell the lot (by auction or private treaty) in which case you shall be responsible for any resulting deficiency in the total amount due (after crediting any part payment and adding any resale costs). Any surplus so arising shall belong to the seller.
  - (d) To remove, store and insure the lot at your expense and, in the case of storage, either at our premises or elsewhere.
  - (e) To charge interest at a rate not exceeding 5% over the HSBC standard rate on the total amount due to the extent it remains unpaid for more than three working days after the sale.
  - (f) To retain that or any other lot sold to you until you pay the total amount due.
  - (g) To reject or ignore bids from you or your agent at future auctions or to impose conditions before any such bids shall be accepted.
  - (h) To apply any proceeds of sale of other lots due or in future becoming due to you towards the settlement of the total amount due and to exercise a lien (that is a right to retain possession of) any of your property in our possession for any purpose until the debt due is satisfied.
- (2) We shall, as agent for the seller and on our own behalf pursue these rights and remedies only so far as is reasonable to make appropriate recovery in respect of breach of these conditions.

**9. Third party liability:** All members of the public on our premises are there at their own risk and must note the lay-out of the accommodation and security arrangements. Accordingly neither the auctioneer nor our employees or agents shall incur liability for death or personal injury (except as required by law by reason of our negligence) or similarly for the safety of the property of persons visiting prior to or at a sale.

**10. Commission bids:** Whilst prospective buyers are strongly advised to attend the auction and are always responsible for any decision to bid for a particular lot and shall be assumed to have carefully inspected and satisfied themselves as to its condition we will if so instructed clearly and in writing execute bids on their behalf. Neither the auctioneer nor our employees or agents shall be responsible for any failure to do so save

where such failure is unreasonable. Where two or more commission bids at the same level are recorded we reserve the right in our absolute discretion to prefer the first bid so made.

- 11. Warranty of title and availability:** The seller warrants to the auctioneer and you that the seller is the true owner of the property consigned or is properly authorised by the true owner to consign it for sale and is able to transfer good and marketable title to the property free from any third party claims.
- 12. Agency:** The auctioneer normally acts as agent only and disclaims any responsibility for default by sellers or buyers.
- 13. Terms of sale:** The seller acknowledges that lots are sold subject to the stipulations of these conditions in their entirety and on the 'Terms of consignment' as notified to the consignor at the time of the entry of the lot.

**14. Descriptions and condition:**

- 1) Whilst we seek to describe lots accurately, it may be impractical for us to carry out exhaustive due diligence on each lot. Prospective buyers are given ample opportunities to view and inspect before any sale and they (and any independent experts on their behalf) must satisfy themselves as to the accuracy of any description applied to a lot. Prospective buyers also bid on the understanding that, inevitably, 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 shall be honestly and reasonably held and accept liability for opinions given negligently or fraudulently. Subject to the foregoing neither we the auctioneer nor our employees or agents nor the seller accept liability for the correctness of such opinions and all conditions and warranties, whether relating to description, condition or quality of lots, express, implied or statutory, are hereby excluded. This condition is subject to the next following condition concerning deliberate forgeries and applies save as provided for in paragraph 6 'information to buyers'.
- (2) Private treaty sales made under these conditions are deemed to be sales by auction for purposes of consumer legislation.

- 15. Forgeries:** Notwithstanding the preceding condition, any lot which proves to be a deliberate forgery (as defined) may be returned to us by you within 21 days of the auction (not collection) provided it is in the same condition as when bought, and is accompanied by particulars identifying it from the relevant catalogue description and a written statement of defects and **FACTUAL EVIDENCE**, not just a chosen 'Opinion'. If we are satisfied from the evidence presented that the lot is a deliberate forgery we shall refund the money paid by you for the lot including any buyer's premium provided that

- (1) if the catalogue description reflected the accepted view of scholars and experts as at the date of sale or
- (2) you personally are not able to transfer a good and marketable title to us, you shall have no rights under this condition.

The right of return provided by this condition is additional to any right of remedy provided by law or by these 'Conditions of sale'.

**General:**

- 16.** We shall have the right at our discretion, to refuse admission to our premises or attendance at our auctions by any person.
- 17.** (1) Any right to compensation for losses liabilities and expenses incurred in respect of and as a result of any breach of these conditions and any exclusions provided by them shall be available to the seller and/or the auctioneer as appropriate.
- (2) Such rights and exclusions shall extend to and be deemed to be for the benefit of employees and agents of the seller and/or the auctioneer who may themselves enforce them.
- 18.** Any notice to any buyer, seller, bidder or viewer may be given by first class mail or Swiftmail in which case it shall be deemed to have been received by the addressee 48 hours after posting.
- 19.** Special terms may be used in catalogue descriptions of particular classes of items in which case the descriptions must be interpreted in accordance with any glossary appearing at the commencement of the catalogue.
- 20.** Any indulgence extended to bidders buyers or sellers by us notwithstanding the strict terms of these conditions or of the 'Terms of consignment' shall affect the position at the relevant time only and in respect of that particular concession only; in all other respects these conditions shall be construed as having full force and effect.
- 21.** English law applies to the interpretation of these conditions. END.

## GLOSSARY OF CATALOGUING TERMINOLOGY

### **Precious Metals**

The weights applied to descriptions of platinum, gold, silver and other precious metals are approximate guides given from the most basic of equipment which are not approved for 'Use-in-Trade'. As all lots are sold as objects and not as 'Value-by-Weight' these are sufficient for the purpose of auction sale.

### **Gemstones & Jewels**

Many coloured gemstones have been subjected to a variety treatments designed to enhance their appearance, for example heating is regularly used to improve colour or transparency in rubies and sapphires. Other treatments such as oiling, enhance the clarity of emeralds. Other coloured gemstones may have undergone permanent or semi-permanent treatments such as dyeing, irradiation, coating and impregnation, which may require further re-treatment in order to retain their appearance. The jewellery trade generally accepts these treatments. Prospective purchasers should assume all gemstones will have been treated unless statements are made to the contrary.

Recent advancements in technology have led to some diamonds being treated in a variety of ways designed to enhance their appearance. These treatments can include fracture filling, laser drilling, irradiation and coating. Every effort is made to identify such treatments; however it is not possible for Golding Young & Mawer to guarantee that all lots containing diamonds are free of these enhancements.

All dimensions and estimated weights of gemstones have been determined without unsetting the stones and are therefore only approximate because of limitations imposed by the mount. Estimated weights are normally calculated by applying standard formulae to the measurements taken by use of the most basic equipment.

### **Books & Printed Matter**

These items are not sold subject to collation and are not returnable once removed from the premises

### **Paintings, Drawings & Sculpture**

Any statement as to authorship, attribution, origin, date, age, provenance and condition is a statement or opinion and is not to be taken as a statement or representation of fact. Golding Young & Mawer reserve the right, in forming their opinion, to consult and rely upon any expert or authority considered by them to be reliable.

A picture catalogued with the forename(s) and surname of the painter is in our opinion a work by that artist; e.g. Joseph Mallord William Turner. When an artist's forename(s) is not known, a series of asterisks followed by the surname of the artist, whether preceded by an initial or not, indicates that in our opinion the work is by the artist.

1. **Attributed to....** *is in our opinion probably by the artist.*
2. **Studio of....** *is in our opinion a work from the studio of the artist which may or may not have been executed under his direction.*
3. **Circle of....** *is in our opinion a work of the period of the artist executed under his immediate influence.*
4. **Follower of....** *is in our opinion a work by a painter working in the artist's style, contemporary or nearly contemporary, but not necessarily his pupil.*
5. **Manner of....** *is in our opinion a work in a style related to that of the artist, but of a later date.*
6. **School....** *is in our opinion the picture was executed at that time and in that location.*
7. **After....** *is in our opinion a copy of any date after a work by that artist.*
8. The term **signed** and/or **dated** and/or **inscribed** means that in our opinion the signature and/or date and/or inscription are from the hand of the artist.
9. The term **Bears signature** and/or **dated** and/or **inscription** means that in our opinion the artist's name and/or date and/or inscription have been added by another hand.
10. All references to signatures, inscriptions and dates refer to the present state of the work.
11. Dimensions are given height before width.

### **The Artists Resale Right (A.R.R.) or Droit de Suite**

The use of **ARR** in a description warns the buyer that an extra charge will be payable.

Following the UK implementation of the EU Artist's Resale Right directive in February 2006 and the Derogation for Deceased Artists in January 2012, living artists and the heirs of those that died less than 70 years ago may receive a fraction of a resale royalty that is payable by you.

The payment is calculated on qualifying works of art which are sold for more than EUR 1,000. The actual qualifying threshold will be calculated by the Artist's Resale Right Service Hub based on the European Central Bank reference rate published at 2.15pm on the day of the sale, and can be found somewhere on [www.dacs.org.uk](http://www.dacs.org.uk)

The royalty charge will apply if the hammer price is more than to UK sterling equivalent of EUR 1,000. The royalty will be added to the buyer invoice and must be paid before items can be released.

No handling costs or additional fees are retained by auctioneers despite having to do the extra administration work pre and post sale. When we have done the unremunerated work for self described 'not-for-profit' collecting societies we send them the sum from which they will extract their administration fees. Anything left over may go to benefit the artist or their family.

<b>Portion of the hammer price (Euro's EUR)</b>	<b>Royalty Rate</b>
1000 to 50,000	4%
50,000.01 to 200,000	3%
200,000.01 to 350,000	1%
350,000.01 to 500,000	0.5%
Exceeding 500,000	0.25%

*VAT is not payable on this royalty charge. A maximum royalty charge is 12,500 EUR. Revised 4<sup>th</sup> January 2011.*

If you find this complicated or objectionable please forward your complaint to The Minister for Intellectual (sic) Property. [www.bis.gov.uk/contact-us](http://www.bis.gov.uk/contact-us)