

## TERMS AND CONDITIONS OF SALE NOTICE

Whyte & Sons Auctioneers Limited, trading as Whyte's, exercises all reasonable care to ensure that all descriptions are reliable and accurate, and that each item is genuine unless the contrary is indicated. However, the descriptions are not intended to be, are not and are not to be taken to be, statements of fact or representations of fact in relation to the lot. They are statements of the opinion of Whyte's, and attention is particularly drawn to clause 5 set out below. Comments and opinions, which may be found in or on lots as labels, notes, lists, catalogue prices, or any other means of expression, do not constitute part of lot descriptions and are not to be taken as such unless they are made or specifically verified by Whyte's.

### Clause 1

- (a) Each lot is put up subject to any reserve price imposed by the vendor
- (b) Subject to sub-clause (a) of this clause, the highest bidder for each lot shall be the buyer thereof
- (c) If any dispute arises as to the highest bidder the auctioneer shall have absolute discretion to determine the dispute and may put up again and re-sell the lot in respect of which the dispute arises

### Clause 2

- (a) The bidding and advances shall be regulated by and at the absolute discretion of the auctioneer and he shall have the right to refuse any bid or bids. NOTE: Where an agent bids, even on behalf of a disclosed client, the auctioneer nevertheless has the right at his discretion to refuse any such bid.
- (b) The buyer of each lot shall immediately on its sale, if required by the auctioneer, give him the name and address of the buyer and pay to Whyte's at his discretion the whole or part of the purchase money. If the buyer of any lot fails to comply with any such requirement Whyte's may put up again and re-sell the lot; if upon such re-sale a lower price is obtained than was obtained on the first sale the buyer in default on the first sale shall make good the difference in price and expenses of re-sale which shall become a debt due from him.
- (c) Where an agent purchases on behalf of an undisclosed client such agent shall be personally liable for payment of the purchase money to Whyte's and for safe delivery of the lot to the said client.

### Clause 3

- (a) Whyte's reserves the rights to bid on behalf of clients including vendors, but shall not be liable for errors or omissions in executing instructions to bid.
- (b) Whyte's reserves the rights, before or during a sale, to group together lots belonging to the same vendor, to split up and to withdraw any lot or lots at Whyte's absolute discretion and without giving any reason in any case.
- (c) Whyte's acts as agent only, and therefore shall not be liable for any default of the buyer or vendor.

### Clause 4

- (a) Each lot shall be at the buyer's risk from the fall of the hammer and shall be paid for in full before delivery and taken away at his expense within one day of the sale. The buyer will be responsible for all removal, storage and insurance charges in respect of any lot which has not been collected within one day of the date of sale.
- (b) If any buyer fails to pay in full for any lot within 14 days of the date of sale such lot may at any time thereafter at Whyte's discretion be put up for sale by auction again or sold privately; if upon such re-sale a lower price is obtained than was obtained on the first sale the buyer in default on the first sale shall make good the difference in price and the expenses of re-sale which shall become debt due from him.
- (c) Interest at 2 per cent per month and legal costs (if any) for recovery of monies due shall be payable by the buyer on any overdue account.

### Clause 5

- (a) All lots are made available for inspection before each sale and each buyer, by making a bid, acknowledges that he has satisfied himself as to the physical condition, age and catalogue description of each lot (including but not restricted to whether the lot is damaged or has been repaired or restored).
- (b) All lots are sold with all faults and imperfections and errors of description and Whyte's and its employees, servants or agents shall not be responsible for any error of description or for the condition or authenticity of any lot, save for Clause 5 (c) below.

Written or verbal condition reports may be supplied by Whyte's on request but these are merely statements of opinion, and any error or omission in these reports may not be taken as grounds for a cancellation of sale or refund of any part of the purchase price or the cost of any repairs to the lot or lots reported on

- (c) If any lot sold at this auction is subsequently proved to be a "deliberate forgery", Whyte's will cancel the sale and refund to the buyer the total amount

paid by the buyer for the item, in the currency of the original sale. The onus of proving a lot to be a "deliberate forgery" is on the buyer. For these purposes, "deliberate forgery" means a lot that in Whyte's reasonable opinion is an imitation created to deceive as to authorship, where the correct description of such authorship is not reflected by the description in the catalogue (taking into account any Glossary of Terms). No lot shall be considered a deliberate forgery by reason only of any damage and/or restoration and/or modification work of any kind (including repainting or overpainting). This guarantee does not apply if (i) either the catalogue description was in accordance with the generally accepted opinions of scholars and experts at the date of the sale, or the catalogue description indicated that there was a conflict of such opinions; (ii) or the only method of establishing at the date of the sale that the item was a counterfeit would have been by means of processes not then generally available or accepted, unreasonably expensive or impractical to use; or likely to have caused damage to the lot or likely (in Whyte's reasonable opinion) to have caused loss of value to the lot; or (iii) there has been no material loss in value of the lot from its value had it been in accordance with its description. This guarantee is provided for a period of seven (7) years after the date of the relevant auction, is solely for the benefit of the buyer and may not be transferred to any third party. Whyte's has discretion to extend the guarantee for a longer period. To be able to claim under this Guarantee, the buyer must (i) notify Whyte's in writing within three (3) weeks of receiving any information that causes the buyer to question the authenticity or attribution of the item, specifying the lot number, date of the auction at which it was purchased and the reasons why it is thought to be a deliberate forgery; and (ii) return the item to Whyte's in the same condition as the date of the sale to the buyer and be able to transfer good title in the item, free from the third party claims arising after the date of the sale. Whyte's has discretion to waive any of the above requirements. Whyte's may require the buyer to obtain at the buyer's cost the reports of two independent and recognised experts in the field, mutually acceptable to Whyte's and the buyer. Whyte's shall not be bound by any reports produced by the buyer, and reserves the right to seek additional expert advice at its own expense. In the event Whyte's decides to rescind the sale under this Guarantee, it may refund the buyer the reasonable costs of up to two mutually approved independent expert reports.

(d) Any lot listed as a "mixed lot, collection, range, portfolio etc." or stated to comprise or contain a collection or range of items which are not described shall be put up for sale not subject to rejection and shall be taken by the buyer with all (if any) faults, lack of genuineness and errors of description and numbers of items in the lot, and the buyer shall have no right to reject the lot; except that, notwithstanding the foregoing provisions of this sub-clause, where before a sale a person intending to bid at the sale gives notice in writing to, and satisfies Whyte's that any such lot contains any item or items not described in the sale catalogue and that person specifically describes that item or those items in that notice, then that item or those items shall, as between Whyte's and that person, be taken to form part of the description of the lot.

### Clause 6

The respective rights and obligations of the parties shall be governed and interpreted by Irish law, and the buyer hereby submits to the exclusive jurisdiction of the Irish Courts.

### SPECIAL CONDITIONS

- (a) The buyer shall pay Whyte's a commission at the rate of 25% (including VAT under The Margin Scheme and which is not reclaimable).
- (b) Whyte's or its employees, servants or agents may, on request organise packing and shipping of lots purchased or may order on the buyer's behalf third parties to pack or ship purchases. Under no circumstances does Whyte's accept any liability whatsoever for any loss or damage howsoever occasioned in the course of such service.
- (c) The buyer authorises Whyte's to use any photographs or illustrations of any lot purchased for any or all purposes as Whyte's may require. The placing of a bid will be taken as full agreement to all the above conditions.

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