



Auction Conditions of Business

("the conditions")

A –GENERAL CONDITIONS

1 –Definitions

1.1 In these conditions: **"the Auctioneer"** means the representative of John Goodwin FRICS conducting the auction;

"Bought-in" means unsold, having failed at auction to reach the Reserve;

"the Buyer" means the bidder (including a commission bidder under Condition 27) whom John Goodwin FRICS has accepted by the fall of the auctioneer's hammer;

"the Catalogue" means any advertisement, brochure, price list or other publication relating to the auction published by or on behalf of John Goodwin FRICS;

"Dangerous Substances" any natural or artificial substance capable of causing harm to any living organism supported by the environment, or damaging the environmental or public health or welfare;

"Environmental Law" all laws, regulations, codes or practice, circulars, guidance notices and the like (whether in the UK or elsewhere) concerning the protection of human health or the environment or the conditions of the work place or the generation, transportation, storage, treatment or disposal of Dangerous Substances;

"Expenses" means John Goodwin FRICS charges for illustrations, special advertising, insurance, import packing and freight and any other expenses and VAT on these amounts;

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

"Lot" means any item or items of any kind accepted by John Goodwin FRICS with a view to its or their sale by auction.

"the Purchase Price" means the Hammer Price in pounds sterling together with any premium inclusive of VAT chargeable and additional charges and expenses due from a defaulting Buyer under Condition 27;

"the Reserve" means the minimum Hammer Price set by the Seller at which a Lot may be sold and otherwise subject to Condition 6;

"the Sale Proceeds" means the net amount due to the Seller, being the Hammer Price less commission, at the Stated Rates and Expenses and any other amounts due to John Goodwin FRICS by the Seller;

"the Seller" means the seller or prospective seller of any Lot

"Special Goods" means boats, motor vehicles, fire arms and mechanical and electrical goods;

"the Stated Rates" means John Goodwin FRICS published rates of commission for the time being and VAT;

"Storage Charges" means charges imposed by John Goodwin FRICS in respect of the removal, storage and transportation of any Lot;

"VAT" means Value Added Tax.

1.2 – The heading and division into General Conditions, Seller's Conditions and Buyer's Conditions in these Conditions are for convenience only and shall not affect their interpretation.

1.3 – In these Conditions the singular includes the plural and the masculine includes the feminine and neuter.

2 –General

2.1 - John Goodwin FRICS acts as agent for the Seller (except where it is expressly stated to be selling as principal) and is not responsible for any default by the Seller or the Buyer.

2.2 – John Goodwin FRICS has the right to refuse admission to its premises or attendance to its auction by any person.

All persons are admitted to John Goodwin FRICS premises to attend an auction on the basis that they have notice of these Conditions.

2.3 – The copyright in all illustrations and written matter (including the Catalogue) relating to each Lot is the absolute property of John Goodwin FRICS and no person may use or copy the same without the prior written consent of John Goodwin FRICS.

2.4 – John Goodwin FRICS makes every effort to ensure that the Catalogue and description of the Lot are accurate but John Goodwin FRICS makes no warranty to that effect.

2.5 – All Statements whether made verbally or in the Catalogue are statements of opinion only and neither John Goodwin FRICS or its employees or agents will be responsible for the accuracy of any opinion given. Each Lot is sold by the Seller with any and all errors of description, faults and imperfections.

2.6 – John Goodwin FRICS has the right to divide any Lot or combine two or more Lots, refuse any bid, withdraw any Lot from auction or (in the case of dispute) put any Lot up for auction again. The Auctioneer shall have the right to advance the bidding as he may decide.

2.7.1 – John Goodwin FRICS shall be under no liability for any damage or loss sustained by any person while on John Goodwin FRICS premises or while attending auctions conducted by John Goodwin FRICS except for death or personal injury caused by the negligence of John Goodwin FRICS, its employees and agents.

2.7.2 – John Goodwin FRICS shall not be liable for any damage caused by the Seller or the Buyer to third parties or their property while on John Goodwin FRICS premises or on other premises from which John Goodwin FRICS is conducting auctions.

2.8 – In the event of a sale after the auction of any Lot by private treaty the Seller and the Buyer agree to be bound by these Conditions and any agreed special conditions of sale.

2.9 – The Conditions shall be the only terms applicable to the sale of any Lot at an auction conducted by John Goodwin FRICS.

2.10 – Any notice by John Goodwin FRICS to a Seller, prospective Seller, consignor, prospective bidder or Buyer may be delivered by hand, sent by first class mail or air mail, email or facsimile to the address last notified to John Goodwin FRICS and shall be deemed to be received:

2.10.1 – if hand delivered, at the time of delivery;

2.10.2 – if sent by facsimile within 8 hours of transmission during business hours;

2.10.3 – if sent by mail within 48 hours of posting if posted to an address within the UK and 7 days of posting if posted to a country outside the UK.

2.10.4- if sent by email, within 48 hours of sending.

2.11 – All transactions to which the Conditions apply shall be governed by English Law. In the event of any dispute between John Goodwin FRICS, the Seller and the Buyer concerning the sale of any Lot at an auction conducted by John Goodwin FRICS, the matter shall be referred to a single arbitrator to be

agreed upon by the parties or in default of agreement to be nominated by the President for the time being of the Royal Institute of Chartered Surveyors in accordance with the Arbitration Act 1950 or any statutory modification if re-enactment of it for the time being in force.

B –BUYERS CONDITIONS

17 –Inspection

Buyers and prospective Buyers are deemed to have satisfied themselves before bidding by inspection or otherwise as to (but not limited to) the physical condition (including defects) of the Lot and its description in the Catalogue.

Buyers and prospective Buyers should note the provisions of General Conditions 2.4 and 2.5 in relation to descriptions of the Lot in the Catalogue.

18 –The Buyer

18.1 – Any dispute as to who is the Buyer of any Lot shall be settled by John Goodwin FRICS.

18.2 - Every bidder at an auction run by John Goodwin FRICS shall be deemed to act as principal unless prior to start of an auction John Goodwin FRICS has given a written acknowledgement that a bidder is acting as agent for a named principal.

19 –Buyer’s Premium

Where a Buyer’s premium is levied it shall be at the advertised rate and will be subject to VAT at the prevailing rate.

The Buyer also acknowledges that John Goodwin FRICS may receive commission from the Seller in accordance with Condition 11 hereof.

20 –VAT

Where VAT is payable by the Buyer on the Hammer Price this will be clearly indicated prior to the sale.

21 –Commission Bids

21.1 – Prospective Buyers are advised to attend in person auctions run by John Goodwin FRICS. However John Goodwin FRICS will, if so instructed, execute written bids up to a specified limit from prospective Buyers sent by post, email or facsimile transmission to John Goodwin FRICS in advance of an auction or (at John Goodwin FRICS discretion) bids by telephone made by or on behalf of prospective Buyers before the auction.

The Buyer shall deliver any instructions regarding commission bids whether delivered by post, facsimile transmission, telephone, email or in person to the appropriate employee of John Goodwin FRICS, being the Auctioneer or an employee authorized to accept such instructions.

Neither John Goodwin FRICS nor its employees or agents will be liable for any neglect or failure to act in connection with any commission bids.

21.2 – In the event that John Goodwin FRICS has received commission bids on a Lot identical amounts and at auction those commission bids are the highest bids for the Lot, subject to Condition 18.1 and to John Goodwin FRICS ultimate discretion it shall be sold to the person whose commission bid was received first.

22 –Title and Risk

22.1 – Upon the acceptance of a bid (indicated by fall of the hammer) by John Goodwin FRICS:

22.2.1 – a contract of sale for the Lot in question is completed between the Seller and the Buyer to which John Goodwin FRICS is not a party and will not be liable for any breach thereof by either the Seller or the Buyer;

22.1.2 – the Lot will be at the sole risk of the Buyer who shall forthwith show his bidding registration card or give his full name and permanent address and if called upon to do so by the Auctioneer shall forthwith pay to John Goodwin FRICS such proportion of the Purchase Price as the Auctioneer may require.

Failure by the Buyer to do so may (at the Auctioneer's sole discretion) lead to the lot being put up again and re-sold.

22.2 – Legal title to the lot will not pass to the Buyer until the Purchase Price and any other fees due have been paid (and all monies cleared) in accordance with Condition 23.3.

John Goodwin FRICS shall be entitled to a lien on any Lot sold until the Purchase Price has been paid in accordance with Condition 23.3.

23 –Payment

23.1 – A prospective Buyer must if practicable prior to an auction register to bid and must then give John Goodwin FRICS his full name and permanent address and if requested by John Goodwin FRICS banking or other suitable references.

23.2 – **Payment** must be made within 48 hours of the sale.

23.3 – Full payment for all lots must be made to John Goodwin FRICS by means of cash (up to £8000) For cash payments over £1000 a form of photo identification (passport or driving licence) and recent utility bill will need to be produced.

Debit cards are acceptable as payment. We no longer accept Credit Cards. Where the customer is not present there is a limit of £300 for card payment.

Bank transfer or cheque payment is acceptable however goods cannot be released until funds are fully cleared.

23.4 – Any payments by a Buyer to John Goodwin FRICS may be applied by John Goodwin FRICS towards or set off against any sums owing from that Buyer to John Goodwin FRICS on any account whatever regardless of any directions of the Buyer or his agent, whether express or implied.

24 –Removal of purchased lots

24.1 – No lot may be removed by the Buyer until the Purchase Price has been paid in full and the monies cleared in accordance with Conditions 23.3.

24.2 – Subject to Condition 24.1, if the buyer shall not remove (and arrange for transport/carriage) at his expense any lot purchased by him on the day of the sale, then the buyer shall pay to John Goodwin FRICS storage and transportation charges. Details of these charges are as follows:

Removal of items items successfully purchased must be removed from the saleroom on sale day. Items that are not removed will be taken to our store for collection at a mutually agreed time.

Arrangements must be made in advance of collection.

There is a minimum charge of £5 per lot handling fee for removal to store (larger items and furniture are typically £10 per lot) which includes up to 7 days storage, thereafter, storage is charged at £5 per lot per week (£10 per lot per week for furniture items) or part thereof.

Purchasers are reminded that they are responsible for insurance of items from the fall of the hammer.

All charges are subject to VAT at the prevailing rate.

25 –Responsibility for purchased lots

25.1 – As the risk in respect of a Lot will pass to the Buyer from the fall of the hammer (as provided by Condition 22.1), the Buyer will be responsible for any loss or damage to the Lot from that time.

Neither John Goodwin FRICS nor its agents or employees shall be responsible to the Buyer for any loss or damage of any kind whether caused by negligence or otherwise while the Lot is in its custody or control.

25.2 – The Buyer of a Lot being a “motor vehicle” is responsible for complying with the provision of the Road Traffic Act 1988 and all relevant regulations made thereunder (including the Motor Vehicles construction and Use Regulations 1986) and statutory modifications thereof and for ensuring that any necessary test certificate is in force.

25.3 – The Buyer shall be solely responsible for obtaining any export licence or any other certificate or authority (including but not limited to a firearm certificate) required in connection with the Lot.

John Goodwin FRICS will not deliver Lots (being firearms) to Buyers without production of evidence of compliance with all UK firearm regulations.

25.4 – The Purchaser of any Lot containing Dangerous Substances agrees to comply with all Environmental Law and the terms and conditions of all environmental licences and approvals required by Environmental Law, which are applicable to the Dangerous Substances.

26 –Non-payment or failure to collect

If a Lot is not paid for in full and removed in accordance with Conditions 23 and 24, John Goodwin FRICS as agent for the Seller shall without further notice to the Buyer at its absolute discretion be entitled to exercise one or more of the following remedies (without prejudice to any other rights it may have):-

26.1 – Issue legal proceedings against the Buyer for damages for breach of contract;

26.2 – rescind the sale of the Lot and resell the Lot by auction, private treaty or any other means;

26.3 – charge the Buyer all the charges and expenses of the resale (including but not limited to) any commissions for the rescinded sale which remain unpaid and the deficiency (if any) between the Hammer Price of the resale and the hammer price of the rescinded sale;

26.4 – remove, store and insure the Lot at the expense of the Buyer;

26.5 – charge interest on the Purchase Price at a rate not exceeding 4% per month to the extent that it remains unpaid for more than 5 working days after the date of the auction;

26.6 – retain any Lot knocked down to the Buyer at the same or any other auction until payment of a Purchase Price by the Buyer;

26.7 – exercise a lien on any other property of the Buyer in John Goodwin FRICS possession for any purpose;

26.8 – rescind the sale of that Lot or any other Lot knocked down to the Buyer at the same or any other auction;

26.9 – reject or ignore any bids made by or on behalf of the defaulting Buyer at any future auctions or obtain a deposit before accepting any bids from the Buyer in the future.

27 –Liability of John Goodwin FRICS and the Seller

27.1 – None to the Seller, John Goodwin FRICS or its employees or agents is responsible for errors of description (made either orally or in any Catalogue) or for the genuineness or authenticity of any Lot. No warranty whatsoever is given by John Goodwin FRICS, its employees or agents by any Seller to any Buyer in respect of any Lot and any express or implied conditions and warranties are hereby excluded.

27.2 – Notwithstanding any other terms of these Conditions, if within two months after the sale John Goodwin FRICS has received from the Buyer of any Lot notice in writing that in his view the Lot is a deliberate forgery and within one month after such notification the Buyer returns the same to John Goodwin FRICS in the same condition as at the time of sale then the sale will be rescinded and any amount paid in respect of the Lot will be refunded.

Provided that the Buyer shall have no right under this Condition if:-

27.2.1 – the Buyer is not able to satisfy John Goodwin FRICS that the Lot is a deliberate forgery on the basis of evidence from experts;

27.2.2 – the only method of establishing at the date of publication of the Catalogue that the Lot was a deliberate forgery was by means of scientific processes not generally accepted for use until after publication of the Catalogue or a process which was unreasonably expensive or impractical; or

27.2.3 – the Buyer is not able to transfer a good and marketable title to the Lot free from any third party claims.

27.3 – Any claim by a Buyer under Condition 28.2 shall be limited to any amount paid in respect of the Lot and shall not extend to any consequential loss suffered by him as a result of the Lot being a deliberate forgery.

27.4 – The benefit of this Condition shall be assignable and shall only extend to the Buyer, being the person to whom the original invoice was made out by John Goodwin FRICS in respect of the Lot when sold and who has since the sale retained uninterrupted, unencumbered ownership of that Lot.

28 –Photographs and Illustrations

The buyer gives John Goodwin FRICS the absolute right to use its photographs and illustrations of Lots at any time at John Goodwin FRICS absolute discretion (whether or not in connection with the auction).

29 - DROIT DE SUITE royalty charges.

From 14th February 2006 all UK art market professionals (which includes but is not limited to auctioneers, dealers, galleries, agents and other intermediaries) are required to collect a royalty payment for all works of art that have been produced by living artists or those that have died within the last 70 years.

This payment is only calculated on qualifying works of art which are sold for a hammer price more than the UK sterling equivalent of EURO 1,000-the UK sterling equivalent will fluctuate in line with prevailing exchange rates.

It is entirely the responsibility of the buyer to acquaint himself with the precise EURO to UK sterling exchange rate on the day of the sale in this regard and the auctioneer accepts no responsibility whatsoever if the qualifying rate is different to the rate indicated.

The royalty charge will be applied if the hammer price achieved is more than the UK sterling equivalent of EURO 1,000.

The royalty charge will be added to all relevant buyers' invoices and must be paid before items can be cleared.

All royalty charges are passed on to the Design and Artists Copyright Society ('DACS') no handling costs or additional fees with respect to these charges will be retained by the auctioneers.

The royalty charge that will be applied to qualifying items which achieve a hammer price of more than the UK sterling equivalent of EURO 1,000, but less than the UK sterling equivalent of 50,000 is 4%.

For qualifying items that sell for more than the UK sterling equivalent of EURO 50,000 a sliding scale of royalty charges apply –for a complete list of royalty charges and threshold levels please see www.dacs.org.uk.

There is no VAT payable on this royalty charge.

30 - Telephone Bidding telephone bids are available on a strictly "first come, first served" basis and are restricted to items with a low estimate of £200 and above. The auctioneer reserves the right to automatically open the bidding to a telephone bidder at £200.

We regret that telephone bidding facilities are extremely limited as we use remote salerooms.

Card payment, where "cardholder not present", cannot be accepted for items bought by telephone bidders. Payment must be by cash, card payment in person or by bank transfer.

31 – Postage/ Packing and collection.

Small items for collection or shipping can be taken back to the **Ledbury office**. This is at the buyer's risk.

If it is your intention to collect please ensure that items are collected within 1 week of the sale otherwise they will be transported back to store. This will incur a handling and storage charge as detailed in 24.2 above.

Please telephone the office (01531 634648) before collection to ensure that your items are readily available for collection.

The address of the Ledbury office is:

John Goodwin FRICS
3/5 New Street
Ledbury
Herefordshire
HR8 2DF

Larger items that are not collected on sale day will need to be transported to store. This will incur a handling charge of £10 plus VAT for each lot. Any item not collected within 1 week will incur storage charges of £10 plus VAT per lot, per week or part thereof.

John Goodwin FRICS require at least 48 hours notice for collection from store.

Shipping:

John Goodwin FRICS recommend Mailboxes etc., Worcester for a professional packing and postage service for any items which are unable to be collected.

Their contact details are as follows:

Mailboxes etc.(Robert) www.mbeworcester.co.uk 01905 732830

Very Important, before goods can be released to mailboxes or any other courier, the courier will need to produce a receipted invoice. **Without the invoice goods will not be released.**

John Goodwin FRICS do offer a basic **post and packing service** but are not professional packers and will require a disclaimer from buyers confirming that they will take responsibility for packaged items in transit.

Items can only be posted to mainland UK addresses.

Postage and packing rates range from a minimum of £10.00, for a single small item in a jiffy bag, to £35.00 and over for larger items, **all plus current Royal Mail or Parcel Force postage rates.**

Buyers should be aware that antiques, collectables, china, glass, etc. **are not insured** by Royal Mail.

The in-house packing service may take up to 14 working days from receipt of full, cleared, payment).

John Goodwin are unable to undertake the packing of pictures.

