

## VENDOR INSTRUCTION CONDITIONS

The Vendor appoints Shapiro Auctioneers ABN 58 098 454 301 to be its sole and exclusive agent to sell on the Vendor's behalf the items listed overleaf ("the Goods") by auction or private treaty subject to the following terms and conditions:

### A. OUR ROLE

- A1. Any sale achieved at auction or by private treaty is undertaken by us as your agent and on your behalf.
- A2. The contract for sale of the Lot will be between you and the Buyer and will be in accordance with the terms as they may appear in the catalogue in which Goods are listed ("Conditions of Business"). We are not responsible for default by either you or the Buyer. You agree to be bound by and comply with the terms of the Conditions of Business in any contract for sale that arises between you and a Buyer, and shall indemnify us against the consequences of any failure to do so. You authorize us or persons authorized by us to receive the purchase money, and to sign a contract, sale note or other like document on your behalf.
- A3. The Conditions of Business also contains terms which affect your relationship with us, and you agree to be bound by those terms as well. If there is any conflict between the Conditions of Business and what appears here ("the Vendor Instruction Conditions"), the terms printed here shall apply.

### B. CHARGES

- B1. Commission. We shall charge commission on gross auction sale price of Goods sold by auction or private treaty at the rate shown overleaf ("Seller's Commission"). A minimum charge of \$100.00 per Lot will be applied whether a lot is sold, not sold or withdrawn.
- B2. Expenses. You will bear all costs ("Expenses") relating to any sale or attempted sale including:
  - (a) Packing and shipping the lot and any applicable transit insurance;
  - (b) Insurance as provided for in clause 15;
  - (c) Any applicable customs duties, taxes, levies, GST charges and reproduction rights' fees;
  - (d) Catalogue illustration and photography;
  - (e) Any restoration or framing agreed in advance with you;
  - (f) Testing, searches or enquiries relating to any of the Goods, including any examination and report by external experts we believe necessary;
  - (g) Storage of any property after the sale where appropriate;
  - (h) Obtaining copyright clearance;
  - (i) Fees associated with obtaining export clearance, if we agree to undertake this;
  - (j) Legal expenses including costs of collection from a defaulting Buyer;
  - (k) Featured advertising of the Goods, other than in the catalogue or general sales advertising; and
  - (l) Our administration costs if expenses are incurred under (e), (f), (h), (i), (j) and (k) equal to 10% of those expenses.

### B3. GST

- (i) Before we sell any of your goods you must tell us in writing whether or not you will be liable for GST in connection with the supply of those goods as a result of the sale of those goods and if so you must give us in writing details of your ABN. If you do not give us this information we may treat the supply of your goods as not being subject to GST and may inform potential buyers and the Buyer accordingly.
  - (ii) If you have told us that the supply of the Goods will be subject to GST, you authorise us:
    - (a) to inform potential buyers and the Buyer;
    - (b) to issue a Tax Invoice to the Buyer;
    - (c) to use our ABN in the Tax Invoice issued to the Buyer.
  - (iii) If you are not an Australian Resident you must tell us in writing before we sell the Goods of that fact and give us details of your Resident Agent to whom we are to remit monies payable to you under these Vendor Instruction Conditions. If you do not give us this information we are entitled to regard you as being an Australian Resident.
  - (iv) You are to indemnify us from any loss and damage we may suffer or incur because of anything you have told us or fail to tell us as described in this Condition B3.
  - (v) All monies payable to us under these Vendor Instruction Conditions are GST exclusive and have been set without regard to GST. Where an amount payable under these conditions is expressed as a rate or a percentage (for example the Buyer's Premium, Seller's Commission and fee payable under Condition 15(a)) it is also GST exclusive and has been set without regard to GST.
  - (vi) If we become liable for GST in respect of any supply made by us then the amount you must pay under these Vendor Instruction Conditions is to be increased so that we will receive an amount (the GST inclusive amount) which after subtracting the relevant amount of GST payable by us will leave as the resulting amount an amount which is the same as the GST exclusive amount. That increase is to take place on the earlier of (a) the date we become liable to pay that GST; or (b) the date the relevant supply is made. In this case, we will give you a Tax Invoice.
- B4. Interest. You will pay to us interest on any amount that you owe us and have not paid within 14 days of invoice. Interest will be at the rate quoted by our bankers from time to time on overdraft accounts in excess of \$100,000.00, as at the date on which interest commences to run, and will be compounded monthly.

### C. WITHDRAWAL AND WITHDRAWAL FEES

- C1. Withdrawal of lots by you: If you withdraw any of the Goods from sale less than twelve (12) weeks before the date of the auction, you will be liable to pay to us a withdrawal fee calculated in accordance with Condition C3 below. If you withdraw goods before that time, no withdrawal fee is payable.
- C2. Withdrawal of lots by us: We may withdraw any of the Goods from sale without any liability if (i) we reasonably believe that there is any doubt as to its authenticity or attribution or (ii) it is established or alleged that any of the representations or warranties set out in Condition 1 below are inaccurate in any way or (iii) you breach any provisions hereof or of the Conditions of Business in any material respect or (iv) the lot contains any endangered species for which a sale exemption is required and the sale exemption has not been granted by the day preceding the first day of the viewing of the sale or (v) we consider the lot to be of insufficient sale value or (vi) the lot suffers from loss or damage so that it is not in the state in which it was when we agreed to sell it or (vii) the auction at which it was proposed to sell the lot is postponed for any reason or (viii) if we consider it inappropriate to include it in a sale.

- C3. Withdrawal fee: If the property is withdrawn by us because the circumstances described in any of (i), (iv), (v), (vi), (vii) or (viii) of Condition C2 above occurs, then you shall not be charged a withdrawal fee and the property shall be returned to you at your expense provided that there is no adverse title claim on the property. If, however, the property is withdrawn by us for any other reason, or if you withdraw the goods from sale less than 12 weeks before the date of the auction, you shall pay us a withdrawal fee together with any Expenses. The withdrawal fee shall be equal to the sum of the Seller's Commission and the Buyer's Premium and shall be calculated as if the withdrawn property had sold at the Mid Pre-Sale Estimate. We shall not be obliged to withdraw any property from sale or to return it to you unless you have paid us the withdrawal fee and Expenses.

### D. SALE ARRANGEMENTS

- D1. Empty cases and packages may at our discretion be regarded as valueless and may be destroyed or discarded.
- D2. We have complete discretion as to the way in which the Goods are included in the sale and how they are described and illustrated in the catalogue or any condition report; the date, place and manner of sale; the manner in which the sale is advertised; the decision as to which persons should be admitted to the auction and the preview venues; as to which bids should be accepted; whether expert advice should be sought; and the combination or division of the Goods for sale into Lots.
- D3. Any estimate given by us, whether written or oral, is a matter of opinion only and is intended only as a guide. An estimate shall not be relied upon as a prediction of the anticipated selling price. Any estimate given (whether written or oral and whether in a catalogue, receipt, letter or otherwise) may, in our absolute discretion, be revised from time to time.
- D4. We may consult with and rely on any outside experts, consultants or restorers of our choice in relation to the property and to carry out such other inquiries or tests in relation to the property as we may, in our absolute discretion, deem appropriate. This is, however, a matter for our discretion and we are under no duty to carry out such consultation, inquiries or tests.
- D5. Any representations, written or oral and including those in any catalogue, report, commentary or valuation, in relation to any aspect or quality of any Lot, including price or value, (i) are statements of opinion only and (ii) may be revised prior to the Lot being offered for sale (including whilst the lot is on public view). Neither Shapiro Auctioneers, any Shapiro Auctioneers Affiliated Company, nor any agent, employee or director thereof shall be liable for any errors or omissions in any such representations.
- D6. Any claim by you against us arising out of the sale or attempted sale or on any other account (excluding any claim covered by Condition 15) shall, in any event, be limited to the Net Sale Proceeds in respect of that Lot.

### E. SETTLEMENT ARRANGEMENTS

- E1. Payment to be made by you to us: Following the sale, you will be liable to pay us the Seller's Commission, Expenses and GST thereon. We may deduct each of these items from moneys received from the Buyer, as well as charges in respect of unsold and withdrawn Lots. Charges and Expenses for any unsold and withdrawn Lots which cannot be deducted from the sale proceeds of other property belonging to you which have already been sold by us will have to be paid in full by you to us before the item will be released to you.
- E2. Payment of net sale proceeds to you: Unless we have been notified by the Buyer of his intention to rescind the sale on the basis that the Lot is a counterfeit, we shall send to you on the thirty-fifth (35th) day after the final day of the auction, the Net Sale Proceeds received from the Buyer in cleared funds, less any other amount you owe us or any Shapiro auctioneers Affiliated Company. The Net Sale Proceeds payable to you are derived from the actual proceeds of sale received by us from the Buyer. Where the Buyer makes payment more than thirty (30) days after the final day of the relevant sale, we shall send you the Net Sale Proceeds less any other amount you owe us or any Shapiro auctioneers Affiliated Company within five (5) working days of receipt of cleared funds.
- E3. Non-payment by the Buyer: We are under no obligation to enforce payment by any Buyer nor to undertake legal proceedings to recover such payment. You must inform us of any action which you choose to take against the Buyer to enforce payment of the amount due to you. We have absolute discretion, if necessary in your name, to take and enforce any of the remedies set out in the Conditions of Business including the right to cancel the sale and return the property to you. We may agree such terms as we regard as necessary with the Buyer to obtain settlement of the amount due. On your request, we will inform you of any action being taken against the Buyer and shall give consideration to any views which you may express to us on the appropriate course of action to take to recover the amount due. We may but are not obliged to charge the Buyer interest for late payment in accordance with the Conditions of Business.  
If the Buyer fails to pay the Total Amount Due but we agree to remit to you an amount equal to the Net Sale Proceeds, ownership of the relevant lot shall pass to us and we shall have the benefit as buyer of all of your representations, warranties and indemnities set out in herein and the Conditions of Business.
- E4. Allocation: If a Buyer owes us money in respect of lots purchased from more than one vendor at one or more sale, we may allocate any payments which we might receive from that Buyer against the balances outstanding in respect of those lots purchased by that Buyer. We may, at our absolute discretion, apply any amounts received from a Buyer towards any balance outstanding from that Buyer irrespective of any directions, either express or implied, from the buyer or his agent. We may allocate the proceeds from the sale of Goods referred to in this contract to any outstanding purchases in your name which have not been paid for in accordance with the relevant conditions of sale.
- E5. Payment in a currency other than Australian Dollars: If we agree to make any payment due to you in a currency other than Australian dollars, you must accept the exchange rate applicable at the time of exchange as quoted by our bankers.

## Vendor Warranties.

If we consider any of the warranties listed below to be breached in any way, we may take legal action against you. You warrant to us that at all relevant times (including but not limited to the time of the consignment of the property and the time of the sale):

- (a) you are the true owner of the property, or are properly authorised to sell the property by the true owner;
- (b) you are able and shall, in accordance with the Conditions of Business, transfer to the Buyer possession and good and marketable title to the property free from any third party rights or claims or potential claims including, without limitation, any claims which may be made by governments or governmental agencies;
- (c) you have notified us in writing of any material alteration or restoration to the property of which you are aware;
- (d) you will ensure that all lots offered for sale by us on your behalf will be available to us at such a time as we require;
- (e) you have provided us with all information concerning the provenance of the property and have notified us in writing of any concerns expressed by third parties in relation to the ownership, condition, authenticity, attribution, or export or import of the lot;
- (f) you are unaware of any matter or allegation which would render any description given by us in relation to the lot inaccurate or misleading;
- (g) where the property has been imported into Australia, (i) the property has been lawfully imported into Australia and has been lawfully and permanently exported as required by the laws of any country in which it was located; (ii) required declarations upon the export and import of the property have been properly made and any duties and taxes on the export and import of the property have been paid; and (iii) you have notified us in writing of any failure by third parties to comply with such requirements in the past;
- (h) you have or will pay any and all taxes and/or duties that may be due on the Net Sale Proceeds of the property and you have notified us in writing of any or all taxes and for duties that are payable by us on your behalf in any country other than the country of the sale;
- (i) unless you advise us in writing to the contrary at the time you deliver the property to us, there are no restrictions, copyright or otherwise, relating to the property (other than those imposed by law) and no restrictions on our rights to reproduce photographs or other images of the property; and
- (j) unless you advise us in writing to the contrary at the time you deliver the property to us, any electrical or mechanical goods (or any electrical or mechanical parts of lots being offered for sale) are in a safe operating condition if reasonably used for the purpose for which they were designed and are free from any defect not obvious on external inspection which could prove dangerous to human life or health.

You agree to indemnify Shapiro auctioneers and any Shapiro auctioneers Affiliated Company, their respective servants, directors, officers and employees and the Buyer against any loss or damage resulting from any breach or alleged breach of any of your representations or warranties, or other terms set forth in these Vendor Instruction Conditions. Where we reasonably believe that any breach or alleged breach of such representation or warranty has occurred, you authorise Shapiro auctioneers in its sole discretion, to rescind the sale.

If we become aware of a competing title claim to, or lien over, any property consigned by you, we shall not release the property to you until the title claim or lien, as applicable, has been finally resolved to our satisfaction.

## Catalogues.

- (a) We may include a description of the Goods in any catalogue, brochure, advertisement, internet listing, website, email or otherwise. Any statement (whether in such description or verbal) as to the authenticity, attribution, description, quantity, quality, age, history or type or as to any fault or defect in any of the Goods will be to the best of our knowledge, information and belief at the time of making thereof. If we subsequently become aware of anything that may give rise to doubt on our part as to the accuracy of any such statement, we shall take such reasonable steps as we consider to correct any misapprehension and in any event, any statement made by the auctioneer prior to the auction will be deemed to have rectified any such error. We accept no responsibility to you or the buyer in consequence of any mis-statement or mis-description, and you shall indemnify and hold harmless Shapiro auctioneers and its employees, servants and agents against any such claim.
- (b) We do not accept responsibility for the authenticity, attribution, genuineness, origin, authorship, date, age, period, condition or quality of any lot. All statements whether printed in the catalogue or made orally as to any of these matters are statements of opinion only and are not to be taken as being or implying any warranties or representations of fact by us.

## Copyright.

- (a) The text, photographs and images contained in the catalogues is subject to our exclusive copyright. We have the absolute right (on a non-exclusive basis) to photograph, illustrate or otherwise produce images of any property consigned to us for sale. We retain copyright in all images created by us of any property and have the right to use such images in whatever way we deem appropriate, both before and after the auction.
- (b) If the use of a photograph of a work of art in any catalogue or brochure is subject to a copyright payment, you must pay the cost thereof.

## The Auction.

- (a) All conditions, notices, descriptions, statements and other matters in the catalogue and elsewhere concerning any lot are subject to any statements modifying or affecting the same made by the Auctioneer prior to any bid being accepted for the lot.
- (b) The auctioneer has absolute discretion to divide any Lot, to combine any two or more lots or to withdraw any Lot or Lots from the sale, to determine the advance of bidding, to refuse bids, to re-offer a Lot for sale or re-open bidding if the auctioneer reasonably believes that there is an error or dispute, take such other action as he reasonably thinks fit in the circumstances and regulate bidding without in any case giving any reason or without previous notice. If during the auction the auctioneer considers that a dispute has arisen, he has absolute discretion to settle it or to re-offer the Lot or re-open the bidding.
- (c) You authorise us to accept telephone and commission bids and bids by other media and to act in accordance with those notwithstanding the fact that the bidder may be unknown to us or the auctioneer.

- (d) The auctioneer is entitled to make consecutive bids or make bids in response to other bids on your behalf up to the reserve placed on the Lot, although at no time shall the auctioneer indicate during the conduct of the auction that he is making such bids on your behalf.
- (e) You may not bid for your own property. Although we may bid on your behalf up to the amount of the reserve, you shall not instruct or permit any other person to bid for the property on your behalf. If you should bid on your own behalf (or instruct someone else to do so), we may treat you as the successful bidder. In those circumstances, you shall not be entitled to the benefit of any right of rescission contained in the Conditions of Business and you shall pay to us a sum representing the total of the Seller's Commission, the Buyer's Premium and all Expenses and GST which we have incurred in connection with the sale of the Lot. We may exercise a lien over the lot until you have paid such sum in full.
- (f) Subject only to the attainment of any reserve price and clause 4(b) above, the person who makes the highest bid accepted by the auctioneer (or that person's disclosed principal, if applicable) shall be the Buyer. The striking of the auctioneer's hammer marks the acceptance of the highest bid and identifies the Hammer price at which the Lot is knocked down by the auctioneer to the Buyer. The striking of the auctioneer's hammer also marks the conclusion of a contract of sale between you and the Buyer.

## 5. Post-auction sales.

If any lot fails to sell at auction, we may for a period of ninety (90) days following the auction sell the property. Unless you agree to the contrary, any post-auction sale shall only be concluded for a price that will result in a payment to you of not less than Net Sale Proceeds to which you would have been entitled had the lot been sold at the reserve price. If a post-auction sale is agreed, your obligations to us and the Buyer with respect to such property are the same as if the property had been sold at auction. In this case, any reference herein to the date of the auction shall be treated as being a reference to the date of the post-auction sale.

## 6. Unsold lot.

We will send you a notice indicating successful sales and any unsold lots. If any unsold lot has not been sold privately pursuant to Condition 5 above, you shall either reconsign the lot to us for re-sale or, alternatively, collect the Lot from us. If you notify us that you wish to collect the lot, or have been requested to do so by us, and have not done so fourteen (14) days after the date of such notification or request we reserve the right to charge you storage at a rate of \$10 per lot per day thereafter.

If you fail either to reconsign or collect the lot as set out above within eighty (80) days of the auction, we shall, in our sole discretion, be entitled to:

- (i) store the lot at an independent storage facility at your risk and expense; or
- (ii) re-offer the lot for sale at public auction with a reserve no less than fifty percent (50%) of the original reserve.

## 7. Premium.

In addition to the Hammer Price, the Buyer shall pay us the Buyer's Premium. You acknowledge our right to retain the Buyer's Premium, which shall also apply in the case of private treaty sales.

## 8. Rescission.

Where we are satisfied that the Lot is a counterfeit such that a right of rescission arises under the Conditions of Business, we may rescind the sale and notify you of such rescission. We may, in our absolute discretion, dispense with the requirements set out in the Conditions of Business in determining whether or not a particular Lot is a counterfeit. Within ten (10) days of receipt of the notice advising you of the rescission of sale, you will return to us the Net Sale Proceeds previously paid by us to you in respect of that Lot and shall reimburse us for any expenses incurred in connection with the rescinded sale. On receipt of such funds, we shall return the lot to you. We shall be entitled to retain such funds even if, for reasons beyond our control, we cannot return the lot to you. We are not liable for any damages to you on any account arising out of rescission.

## 9. Exclusion of liability.

Any representations, written or oral and including those in any catalogue, report, commentary or valuation, in relation to any aspect or quality of any lot, including price or value, (i) are statements of opinion only and (ii) may be revised prior to the lot being offered for sale (including whilst the lot is on public view). Neither Shapiro auctioneers, any Shapiro auctioneers Affiliated Company, nor any agent, employee or director thereof shall be liable for any errors or omissions in any such representations. In any event, any claim by you (excluding any claim covered by Condition 15) shall be limited to the Net Sale Proceeds in respect of that lot.

## 10. Third Party Liability.

Every person on our premises or premises for which we are responsible at any time shall be deemed to be there at his own risk. He shall have no claim against us in respect of any accident which may occur or injury, damage or loss howsoever caused, save in so far as the injury, damage or loss shall be caused by the negligence of Shapiro auctioneers' employees.

## 11. Instructions.

All goods delivered to us will be deemed to be delivered for sale by auction unless otherwise instructed by you in writing and will be catalogued and sold at our discretion and accepted by us subject to these Vendor Instruction Conditions.

## 12. Collections and returns.

We do not ourselves undertake the collection or return of goods but will, if requested in writing, instruct a contractor on your behalf as your agent. We disclaim all responsibility for loss or damage to goods or for unauthorised removal of goods and for damage to premises caused by the contractor.

## 13. Storage.

We may charge you for the storage on our own premises or elsewhere of goods delivered to us for any purpose. This also applies to goods sold but not paid for and collected.

## 14. Right to Sell.

If goods are not removed within 14 days of a request that they be so, we may sell such goods to defray all amounts due from you including storage charges without further reference to you, in which case the whole of these provisions shall apply as though the goods had been consigned with us for sale by auction without reserve.

### 5. Insurance.

(a) Risk of loss or damage - risk borne by us  
Unless otherwise agreed with us in writing at the time of delivery of the lot to us, we will, at your expense, and on the terms set out in this clause, bear the risk of loss or damage in any lot from the time we receive such property until (i) risk passes to the Buyer of the lot following sale of the lot, or (ii) sixty (60) days after the relevant auction, if the lot is unsold or (iii) six (6) months after the lot has been delivered to us, if it remains in our possession and has not been consigned for sale by then.

We shall charge you, and you agree to pay, a sum in respect of the risk borne by us at a rate which shall be equal to one and a half per cent (1.5%) of:

- (i) the Hammer Price, if the lot is sold; or
- (ii) the Reserve Price, if the lot is unsold; or
- (iii) the Mid Pre-Sale Estimate, if the lot is not offered for sale for any reason; or
- (iv) if there is no Mid Pre-Sale Estimate then a reasonable estimate of the auction value of the lot at the date at which it was delivered to us.

If any loss or damage should occur to the property whilst the risk in it is borne by us, we shall not be liable to pay you any more than the amount set out in (i)-(iv) above, as applicable, less Seller's Commission plus Expenses and any applied GST. If the property is partially damaged or partially lost and has depreciated in value, in our opinion, by less than fifty percent (50%), we shall either (i) pay you the amount of depreciation and the property will be offered for sale or returned to you, or (ii) pay you for the property as set forth in the preceding sentence, and you will no longer own the property.

We will not be liable for any loss or damage caused to frames or to glass covering prints, paintings or other work. Nor will we be liable for loss or damage caused by:

- (i) any third party whom we have instructed to deal with the property with your consent;
- (ii) changes in humidity or temperature;
- (iii) normal wear and tear, gradual deterioration or inherent vice or defect;
- (iv) errors in processing;
- (v) war, weapons of war employing atomic fission, or radioactive contamination;
- (vi) damage caused by woodworm or changes in atmospheric conditions; or
- (vii) any matter excluded under the insurance cover arranged by us.

(b) Risk of loss or damage - cover arranged by you

If we have agreed in writing that clause 15(a) shall not apply, then you must maintain insurance cover for the property until the Buyer has made payment for the lot in full. In such circumstances, you agree to:

- (i) provide us with a copy of a certificate of insurance for the property;
- (ii) procure a waiver of subrogation by your insurer of all rights and claims which they may have against us in connection with loss or damage, such waiver of subrogation in a form satisfactory to us, and to provide us with a copy of such waiver;
- (iii) indemnify us against any claim for loss, damage or costs in respect of the property, however that claim may arise;
- (iv) notify your insurer of the terms of the indemnity set out in (iii) above;
- (v) reimburse us on demand for all payments, costs or Expenses, including legal fees, which we incur as a result of any claim. Any payment which we make under this Condition shall be binding upon you and shall be accepted by you as being conclusive evidence that we were required to make such payment, even where no legal liability has been proved; and
- (vi) waive all rights and claims which you may have against us in connection with such loss or damage, other than in circumstances where the loss or damage was caused by our wilful misconduct.

If you fail to comply with sub-paragraphs (i) and (ii) above within ten (10) days of delivery of any property to us, we shall bear the risk of loss or damage in the property in accordance with the terms of Condition 15(a) above, which shall apply in full. We shall bear such risk of loss or damage from the start of the eleventh (11th) day following the day of delivery of the lot to us. If any loss or damage should occur to the property after that time, our liability to you shall be limited to the excess, if any, of (a) the relevant amount set out in (i)-(iv) of Condition 15(a) above, over (b) any amount payable to you for such loss or damage under the insurance policy you agreed to maintain for the lot under this Condition plus any deductible applicable thereunder.

### 16. Reserves.

(a) Unless otherwise agreed in writing not later than 24 hours before the commencement of the sale, each lot will be offered for sale subject to a reserve of seventy five per cent (75%) of the low pre-sale estimate agreed with you. If you and Shapiro auctioneers are unable to agree on a low pre-sale estimate, the reserve shall be seventy five per cent (75%) of our Low Pre-Sale Estimate.

(b) No reserve will exceed the final Low Pre-Sale Estimate announced or published by us, other than in circumstances where the reserve agreed is in a currency other than Australian Dollars and the exchange rates fluctuate between the time the reserve is agreed and the day of the auction. In those circumstances, if we are unable to agree a revised reserve with you, the reserve shall be an amount equal to the Australian Dollar equivalent based on the closing exchange rate available on the date hereof as quoted by our bankers.

(c) Once set, a reserve can only be altered by you with our agreement. You may not specify a reserve greater than the minimum sales estimate listed in the catalogue.

(d) We shall in no circumstances be liable if bids are not received at the level of the reserve but shall be entitled, in our discretion, to sell the lot below the reserve. If we do so, we shall pay you the Net Sale Proceeds which you would have received if the Lot had sold at the reserve. If a Lot fails to sell, the auctioneer will announce that the Lot is unsold.

(e) If a lot is unsold at auction a charge equal to 5% of the reserve for that lot will be made if we have advised you prior to the sale that that reserve is excessive in our opinion.

### 17. Reconsignment.

We may with your consent reconsign any lot so that it shall be offered for sale at public auction by another auction house. In those circumstances, we do so as your agent, and we are not responsible for any default by such other auction house, or for any other reason, and you agree to indemnify us against any claim on any account in respect of such reconsignment.

### 18. Introductory commissions.

We reserve the right to pay out of our remuneration a fee to any third party introducing clients or property to us.

### 19. Indemnity.

In addition to any other indemnity herein contained, you indemnify us, our agents and employees and the Auctioneer in all respects against any claim whatsoever arising from the sale, attempted sale or

storage of any item submitted by you to us for sale or for any other purpose, other than and to the extent of a claim when insurance pursuant to clause 15(a) applies. Such indemnity shall specifically include indemnity against any claims arising from any breach of any of the warranties given by you under these Vendor Instruction Conditions. We shall hold any indemnity given for the benefit of our employees and agents under these Vendor Instruction Conditions on trust for those employees and agents.

### 20. Notices.

Any notice or other communication shall be in writing and, if sent by post, shall be deemed to have been received by the addressee on the second working day after posting or, if the addressee is outside Australia, on the fifth working day after posting. If any written notice is delivered by hand, it shall be treated as having been received at that time and, if any written notice is sent by facsimile, it shall be deemed to have been received twenty-four (24) hours after sending. Any notice sent to us shall be sent to 162 Queen Street, Woollahra, New South Wales, 2025. Any notice which we send to you may be sent to your last address known to us.

### 21. Disputes.

Any disputes which arise between you and us which we can't settle within 28 days of it arising shall be referred to mediation by a mediator appointed by the President of the Law Society of New South Wales at the request of either party. The mediator's costs shall be paid equally unless the mediator otherwise determines.

### 22. Governing law.

These Vendor Instruction Conditions and any amendment to them shall be governed by and interpreted and construed in accordance with the law of the state of Australia in which the sale takes place.

### 23. Jurisdiction.

(i) Subject to clause 21, you agree that the Courts of the state of Australia in which the sale takes place (subject to Condition 23(ii) below) shall have exclusive jurisdiction to settle any dispute (including claims for set-off and counterclaims) which may arise in connection with these Vendor Instruction Conditions.

(ii) The agreement contained in Condition 23(i) above is included for our benefit. Accordingly, notwithstanding the exclusive agreement in Condition 23(i) above, we shall retain the right to bring proceedings in any other court of competent jurisdiction.

### 24. Service of process.

You irrevocably consent to service of process or any other documents in connection with this agreement or proceedings in any Court by facsimile transmission, personal service, delivery at the last address known to us or any other usual address, mail or in any other manner permitted by law of the state of Australia in which the sale takes place, the law of the place of service or the law of the jurisdiction where proceedings are instituted.

### 25. Severability:

If any provisions of these Conditions of Business should be held unenforceable for any reason, the remaining conditions shall remain in full force and effect.

### 26. Miscellaneous.

Words importing one gender include all other genders and words importing the singular include the plural and vice versa. Reference to a person includes an individual firm corporation (limited or unlimited) or any other body. The clause headings are not to be taken into account in the construction and interpretation of these conditions. No act, failure to act or partial act by Shapiro auctioneers shall be deemed a waiver of any of its rights hereunder. These Vendor Instruction Conditions shall not be assignable by you without our prior written agreement. However, these Vendor Instruction Conditions shall be binding on any of your successors, assigns, trustees, executors, administrators and representatives.

### 27. Definitions

In these Vendor Instruction Conditions, unless the context otherwise requires, the following terms shall have the following meanings:

- (a) "ABN" means Australian Business Number as defined in A New Tax System (Australian Business Number) Act 1999 as amended;
- (b) "Australian Resident" means an Australian resident as defined in the GST Act;
- (c) "Buyer" means the person who makes the highest bid accepted by the auctioneer, or that person's disclosed principal;
- (d) "Buyer's Premium" means the commission on the Hammer Price payable to Shapiro auctioneers by a Buyer at the rates posted in the auction room at the time of the relevant sale;
- (e) "GST" means a tax payable under the GST Act;
- (f) "GST Act" means A New Tax System (Goods and services) Act 1999 as amended;
- (g) "Hammer Price" means the price at which a lot is knocked down by the auctioneer to the Buyer or, in the case of a post-auction sale, the agreed price; in both instances excluding the Buyer's Premium, any applicable taxes and any Expenses;
- (h) "Low Pre-Sale Estimate" means the low estimate of Shapiro auctioneers' latest low and high pre-sale estimates of the value of the property, whether or not communicated to the Seller;
- (i) "Lot" means a combination of the Goods which are offered for sale in one line as a lot;
- (j) "Mid Pre-Sale Estimate" means the average of Shapiro auctioneers latest low and high pre-sale estimates of the value of the property, whether or not communicated to the Seller;
- (k) "Net Sale Proceeds" means the Hammer Price of the lot sold to the extent received by Shapiro auctioneers in cleared funds, less Seller's Commission and Expenses;
- (l) "Resident Agent" means resident agent as defined in the GST Act;
- (m) "Shapiro auctioneers Affiliated Company" means any related company to Shapiro auctioneers within the meaning of Section 50 of the Corporations Law;
- (n) "Tax Invoice" means a tax invoice as defined in the GST Act;
- (o) "Total Amount Due" means the Hammer Price in respect of the lot sold, together with the Buyer's Premium, and any charges, fees, interest, taxes (including GST) and Expenses due from a Buyer or defaulting Buyer;
- (p) "we", "us" or "our" means Shapiro auctioneers; "you" or "your" means the Vendor, and if more than one of you, all of you jointly and each of you severally;
- (q) "property" includes the Goods or part thereof.