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CERTIFIED PRACTICING AUCTIONEER & VALUER #395
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auCTION

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TERMS AND CONDITIONS OF SALE, PUBLIC AUCTION – CHATELS

For Vendors:

1. The Vendor warrants to Winter Auctions that he/she is the true owner of the property or is properly authorised to sell the property by the true owner and is able to transfer a good and marketable title to the property free from any third party claim. The Vendor undertakes to indemnify Winter Auctions, its Servants and Agents and the Buyer against any loss or damage suffered by either in consequence of any breach of the above on the part of the Vendor.
2. The Vendor shall duly indemnify Winter Auctions against any claims with any goods sold by Winter Auctions on the Vendor's behalf.
3. Commission of 12% (inc GST) is payable by the Vendor of all lots sold, unless otherwise agreed in advance. There is a Nil lotting fee. Winter Auctions do not charge for photographs, banners or other advertising unless first negotiated with the Vendor.
4. A Vendor who sends for sale by auction any chattel(s) which is an asset of his business must disclose to the Winter Auctions whether or not he is a registered person for GST purposes and, if so, ABN. This information must be supplied to Winter Auctions on or prior to delivery of the goods.
5. Winter Auctions exempt themselves from any liability for goods left on premises after the Vendor has been informed that they are unsold.
6. The Auctioneer will not agree to reserve prices on goods less than \$30.00 and other reserves must be agreed mutually between Winter Auctions and the Vendor in writing. This condition will be strictly enforced. All goods are offered for sale WITHOUT RESERVE unless specific written instructions to the contrary are received. The Vendor will not in person or through the agency of any other except the auctioneer bid for his own property.
7. In the event of a lot remaining unsold at auction Winter Auctions are hereby empowered by the Vendor for a period of 7 days to sell after the auction, by private treaty, at not less than the reserve price. In the event of such a sale by private treaty the Conditions of Sale applicable to a Vendor governing the auction will apply. Winter Auctions reserve the right to lower the reserve by 25% at each subsequent auction until sold or the vendor removes his property.
8. Winter Auctions have the sole right as to the description of any article offered for sale and to its grouping with any other belonging to the Vendor. Any representation, statement or opinion made by Winter Auctions either orally by any of their employees or printed in any catalogue, valuation, advertisement, brochure or list concerning authorship, attribution, genuineness, origin, date, provenance, condition or value is a statement of opinion only and is not to be taken as being or implying any warranty or representation of fact by Winter Auctions. Buyers must satisfy themselves before bidding as once the lot is knocked down this forms a binding contract of sale.
9. The Vendor is entitled to withdraw any lot up to the point of sale. However, in the event of a Vendor seeking to withdraw a lot or alter the agreed reserves, commission rates and other terms of sale after the catalogue has been produced or the sale advertised, Winter Auctions will charge a withdrawal fee of 12% (inc GST) of the low estimate on any lot (s) in addition to any other charges that may be applicable.
10. Winter Auctions shall not be responsible for accidental breakage loss or damage however caused unless by the negligence of their employees. In respect of any item delivered to Winter Auctions premises if the Vendor has in force a policy or policies of insurance in which the article is specifically mentioned whether or not for an agreed value the Vendor will immediately notify his insurers of and shall himself note the interest of Winter Auctions as bailees in respect of such policy or policies.
11. The Vendor authorises Winter Auctions to deduct commission and proper expenses plus any GST thereon from the hammer price and acknowledges the right of Winter Auctions to retain the premium payable by the buyer.
12. Winter Auctions will remit the sale proceeds to the Vendor after deducting commission, removal charges (if applicable) and other proper expenses and GST within 14 days after the sale provided Winter Auctions has been paid in full by the Buyer. In the event that the Buyer has not paid in full Winter Auctions will remit the net proceeds to the Vendor five working days after such payment has been cleared by our bank. If payment has not been received by the Buyer twenty one days following the sale Winter Auctions will endeavour to take the Vendors instructions notwithstanding the Vendor authorises Winter Auctions to take such steps as Winter Auctions think necessary to attempt to recover monies due from the buyer on the Vendors behalf. The Vendor hereby affirms that it shall not be incumbent upon Winter Auctions to pursue the buyers in the matter of amounts due provided always that Winter Auctions has retained possession of the lot or lots.
13. The Vendor authorises Winter Auctions to photograph and illustrate in its catalogue or promotional literature or advertisements any lot consigned for sale and acknowledges Winter Auctions copy-right to such illustration, which may be used at any time whether or not in connection with the particular auction.

For Buyers:

1. All intending buyers must complete and sign a buyer's registration form providing Winter Auctions with name, address, telephone numbers and proof of identity i.e. Drivers Licence. There is a 12% (inc GST) Buyer's Premium on the hammer price of all lots. We accept Cash, Cheques (by arrangement only), Cards (2% fee applies to all card transactions) and Bank Deposit into our nominated Trust Account. Cheques MUST be cleared by the bank prior to collection of purchases.
2. The highest registered bidder for each lot shall be the Buyer subject to the reserve price if any.
3. If a dispute arises as to the highest bidder, the auctioneer may re-open the bidding and re-submit the lot for sale commencing with the highest amount known to have been previously for the lot, or the Auctioneer may decide on the highest bidder in such other manner as the Auctioneer in its absolute discretion shall deem fit. The decision of the Auctioneer shall be final and no bidder shall have any right or recourse against the Auctioneer or the Vendor.
4. Where any person is bidding on behalf of another person, the bidder must provide the Auctioneer with a copy of his/her written authority to bid and purchase a lot, prior to the commencement of the auction, otherwise the bidder is deemed to be acting on his/her own behalf.
5. The Auctioneer may, at their discretion, refuse to accept any bid from any person and no bid shall be retracted without the consent of the Auctioneer.
6. The Auctioneer may withdraw any lot or lots from sale prior to the fall of the hammer for those goods.
7. Each Buyer shall immediately, after the fall of the hammer for a lot, provide the Auctioneer with their registered bidding number.
8. If there is more than one buyer their obligations are joint and several.
9. Time shall be of the essence of any sale of any lot.
10. A right to bid for or on behalf of the Vendor is expressly by the Auctioneer.



Title Warranties:

1. The Auctioneer gives no warranty as to title of the goods.
2. The Auctioneer acts in the sale of goods as agents only for the Vendor, and is not responsible for any default by the Vendor.
3. The Buyer acknowledges that he/she has had opportunity to inspect the whole of the lots and satisfy him/herself as to the condition of any lot and accepts any lots with all faults and defects (if any).
4. The Buyer accepts and agrees that the Auctioneer and Vendor makes no representation or warranty as to the suitability or fitness for purpose, quality, condition or operation of any lot and any implied or other condition of the Sales and Goods Act (QLD) do not apply and no other statutory warranty or representation, express or implied, applies to any item in the sale or to the accuracy of the information provided.
5. No allowance or refunds will be made nor will any Buyer be permitted to reject any lot on the grounds that it is not correctly described in the catalogue (if any).
6. On the fall of the hammer, the lot purchased will be at risk and responsibility of the Buyer and the Vendor will be free of all responsibility for safeguarding the lot and will not be liable for any loss or damage to the lot sold whether such loss or damage is caused or contributed to by any act, neglect or default of the Vendor, its servants, employees or agents or the Auctioneer
7. Should the description or quantity of goods differ from the lot purchased by the Buyer on the fall of the hammer, the Buyer will make no objection and will accept the lot purchased as is. No compensation will be paid in respect of any misdescription or error.
8. Should the Buyer fail to comply with any of the terms and conditions of the sale (the defaulting Buyer) all monies received in part payment of the purchase price shall be absolutely forfeited to the Vendor and all lots not removed in accordance with these terms and conditions may be resold by public auction or private contract and the deficiency in price (if any) of such resale shall be immediately payable by the defaulting Buyer and if not paid on request the Vendor has the right to recover such amount from the defaulting Buyer as debt.
9. Legal and equitable title to the goods shall remain with the Vendor until all monies owing by the Buyer have been paid in full.
10. Possession of goods will only be granted to the Buyer when satisfactory payment arrangements have been made with the Auctioneer.

Payments:

1. All purchases are to be paid for by cash, cheques (by arrangement only) and bank deposit into our nominated Trust Account on the day of sale and prior to the removal of the goods, unless prior arrangements are made with the Auctioneer to accept any other forms of payment. Cheques must clear in our account prior to removal of purchases.
2. Where credit card facilities are available, payment may be made by this method.
3. Any payment by credit card or EFTPOS (where available) will attract the fee applicable to the card used or charged by the Auctioneer.

Removal:

1. All lots which have been paid for in full must be removed by the Buyer at the Buyer's expense by 4.00pm on the day of the sale (unless prior arrangements have been made by the Buyer with the Vendor or the Auctioneer).
2. Prospective buyers of major items of plant are advised that special arrangements may be made with the Auctioneer prior to sale for an extension of time for removal purposes.
3. All loads must be appropriately secured before leaving site.

Liability/Safety:

1. Neither the Vendor nor the Auctioneer will be liable for any personal injury, damage, loss or expense suffered, caused or incurred in the use of, or as a result of any goods purchased, or the installation.
2. All children must be directly supervised at all times.
3. "No go areas" must not be entered at any time.
4. Entry to sale site is at one's own risk and no liability for injury or damage is accepted by the Auctioneer. The Buyer acknowledges that they inspect and remove goods at their own risk.
5. All directions given by the Auctioneer must be followed.

Electric:

1. All electrical appliances are sold in a used condition and have not been tested or found to be electrically safe.
2. No warranty is given that their present condition complies with the requirements of the Electrical Safety Act (QLD).
3. The Buyer acknowledges that it is required to have the appliance examined and repaired by a registered electrical contractor before re-sale or use of the appliance.