

# Duveen Auctions

## CONDITIONS OF BUSINESS AT DUVEEN

### GOVERNING SALES AND OTHER BUSINESS AT DUVEEN IN COEVORDEN

The Conditions of Business set out overleaf and all other terms, conditions and notices set out in the catalogues of Duveen and/or on our online website [www.duveen.com](http://www.duveen.com) and/or announced by the auctioneer or posted in the saleroom by way of notice form the terms on which Duveen contracts, as auctioneer, with actual and prospective buyers. The Conditions of Business apply in all aspects of the relationship between you and us regarding the sale by us of property. They also apply to you if you require inspection, appraisal or valuation of property. They are therefore very important, and you should read them carefully. You agree that any future dealings which you may have with Duveen shall be on the Conditions of Business current in the appropriate location at that time.

Please note that all sections A to E inclusive contain General Conditions, which apply to all sales at Duveen, unless Alternative Conditions apply. You should note that Duveen generally act as an agent for the Seller. Any concluded contract of sale is made directly between the Seller and the Buyer. Duveen is dependent on the Seller for much of the relevant factual material pertaining to items offered for sale. Duveen cannot and do not undertake full due diligence on every item sold. Buyers therefore have a responsibility to carry out their own inspection and investigations to satisfy themselves as to the nature of the items, which they are interested in buying. We specifically draw the attention of all potential Buyers to Conditions 5 and 6 which limit the extent to which Duveen and the Seller may be liable.

Actual and prospective Buyers and Sellers are bound by all Conditions of Business. However, for ease of reference, we have divided the Conditions set out below into sections. Section A explains certain terms that are used regularly throughout the Conditions. Section B sets out those Conditions, which particularly relate to Buyers. Section C sets out used terminology and safety at Duveen. Where possible in these Conditions of Business, Duveen are referred to as 'we', 'us' and 'our', and actual and prospective Buyers and Sellers are, as applicable, referred to as 'you' and 'your'.

## SECTION A

### EXPLANATION AND DEFINITION OF CERTAIN TERMS USED IN THE CONDITIONS OF BUSINESS

In these Conditions of Business, terms placed in inverted commas shall have the meaning set out below:

#### 1. Definitions

- a. 'Hammer Price': means the price at which a lot is knocked down or awarded by the auctioneer to the Buyer or, in the case of a post-auction sale, the agreed price; in all instances excluding the Buyer's Premium, any applicable taxes and any Expenses;
- b. 'Buyer': means the person who makes the highest bid accepted by the auctioneer, or that person's disclosed principal;
- c. 'Expenses': in relation to the sale of any lot means Duveen charges and expenses for insurance, catalogue and other reproductions and illustrations, any customs duties, advertising, packing or shipping costs, reproduction rights' fees, taxes, levies, costs of testing, searches or enquiries relating to any lot, or costs of collection from a defaulting Buyer, plus an amount in lieu of VAT if applicable on illustration and insurance expenses;
- d. 'Reserve': means the minimum Hammer Price at which the Seller has agreed to sell a lot (however see exceptions in condition 10 of The Condition of Sellers);
- e. 'Net Sale Proceeds': means the Hammer Price of the lot sold to the extent received by Duveen, less Seller's commissions and expenses;

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- f. 'Buyer's Premium': means the commission on the Hammer Price payable to Duveen by a Buyer at the rates stated in the catalogue and/or on our online website and/or posted in the auction room at the time of the relevant sale, together with an amount in lieu of the Value added Tax (VAT) if applicable;
- g. 'Duveen' or 'we' means: Duveen Auctions, with its registered office at The White House, Mill Road, Goring, Reading, RG8 9DD. '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 and expenses due from a Buyer or defaulting Buyer;
- h. 'Seller': means the owner or the owner's agent or the person in possession of the property consigned. If
- i. there are multiple owners or agents or persons in possession, each shall assume, jointly and severally, all obligations, liabilities, representations, warranties and indemnities as set forth in the Conditions of Business;
- j. 'Seller's Commission': means the commission payable to Duveen by a Seller at the rates applicable at the date of sale of the property or at the date of loss or damage to the property if applicable, together with an amount in lieu of VAT if applicable.

## **SECTION B**

### **CONDITIONS MAINLY CONCERNING BUYERS**

#### **2. Duveen Capacity**

Duveen sell as an agent for the Seller except where they wholly or partly own any lot as principal. Where Duveen sell as an agent; any sale will result in a contract directly between the Seller and the Buyer.

### **DUVEEN OBLIGATIONS TO BUYERS**

#### **3. Our guarantee to you in respect of counterfeit lots**

If we sell a lot which subsequently proves to be a counterfeit, we shall set aside the sale and refund to you any amount paid by you to us in connection with the lot in the currency of the original sale. This, however, shall only be available on condition that, no later than four (4) weeks after the date of the sale, you:

- a. notify us in writing of the number of the lot, the date of the auction at which it was purchased and the reasons why you consider the lot to be counterfeit, of any information causing you to question the authenticity or attribution of the lot coming to your attention;
- b. are able to transfer good title to us free from any third-party claims arising after the date of the sale to you;
- c. return the lot to us in the same condition as at the date of sale, provided that, in any event, no refund will be available, if either:
  - 1. the lot is in accordance with the catalogue and/or on our online website description or as amended by the auctioneer by public announcement at the time of the auction, either orally or in writing;
  - 2. the catalogue and/or on our online website description at the date of the sale was in accordance with the generally accepted opinions of scholars and experts at that time or the catalogue and/or on our online website description indicated that there was a conflict of such opinions;
  - 3. the only method of establishing that the lot was a counterfeit at the date of publication of the catalogue and/or on our online website was by means of processes which either were not generally accepted for use until after the publication of the catalogue and/or on our online website or else were unreasonably expensive or impractical or likely to have caused damage to the lot or likely, in our reasonable opinion, to have caused loss of value to the lot. An item

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shall be considered counterfeit where, in our reasonable opinion, it is a deliberate modern forgery, i.e. an imitation created since 1870 with the intention of deceiving as to authorship, origin, date, age, period, culture or source (where the correct description of such matters is not reflected by the description in the catalogue and/or on our online website) and which, at the date of sale, had a value materially less than it would have had if the item had been in accordance with the description in the catalogue and/or on our online website. No lot shall be considered a counterfeit by reason only of any damage and/or restoration and/or modification work of any kind (including repainting or over painting).

It is our general policy, and we shall have the right to request the Buyer to obtain at the Buyer's cost the reports of two independent and recognized experts in the field, mutually acceptable to the Buyer and to us, setting out the reasons why the lot in question is considered to be a counterfeit and Duveen agree that they will give due consideration to any such expert reports. However, Duveen reserves the right to seek additional independent advice itself in making its final determination as to whether the lot is a counterfeit and we shall not be bound by any expert report produced by the Buyer. If we agree with the Buyer that the lot is a counterfeit, we shall refund to the Buyer the costs of obtaining two independent expert reports incurred by the Buyer provided that:

- a. such costs were approved by us in advance of obtaining such reports;
- b. the Buyer could not reasonably have obtained independent opinions prior to the sale. The benefit of this guarantee is not capable of being transferred and is solely for the benefit of the Buyer.

## **BUYER'S OBLIGATION TO INSPECT**

### **4. The condition and Examination of any lot offered for sale**

Goods auctioned are usually of some age. All goods are sold with all faults and imperfections and errors of description. Illustrations in catalogues and/or on our online website are for identification only. The absence of any reference to the condition of any lot does not imply that the lot is in good condition or free from faults, imperfections or restorations. Duveen are pleased to give a condition report in writing on request. All lots are sold as shown and/or as described on our online website and their attention is drawn to Conditions 3, 4 and 5 of the Conditions of Business.

You should also note that we have not tested any electrical or mechanical goods prior to the sale (whether in respect of their ability to function, their safety of operation or otherwise) and you are solely responsible for testing such goods before using them. Accordingly, as regards any lot in which you are interested, you undertake:

- a. to inspect and satisfy yourself prior to the sale as to the condition and description of the lot;
- b. to rely on your own judgment as to whether the lot accords with its description;
- c. to seek any independent expert advice reasonable (in the light of your particular expertise and the value of the lot) to satisfy yourself as to authorship, attribution, authenticity, genuineness, origin, date, age, provenance or condition of the lot;
- d. not to rely on any illustration in any catalogue and/or on our online website.

To assist you, we may refer in a catalogue and/or on our online website to particular faults and/or imperfections, but any such guidance which we provide does not purport to be exhaustive. You will be deemed to have knowledge of all matters which you could reasonably have been expected to find out given your particular expertise and the exercise by you of reasonable due diligence.

## **DUVEEN LIABILITY TO BUYERS**

### **5. Exclusion of liability**

Apart from the guarantee in condition 3 given by Duveen to the buyer and your rights in relation to the conduct of auctions as set out in condition 11:

- a. Duveen give no guarantees or warranties to the Buyer and any implied warranties or Conditions are excluded (save in so far as such obligations cannot be excluded by statute);

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- b. In particular, any representations, written or oral and including those in any catalogue and/or on our online website, report, commentary or valuation, in relation to any aspect or quality of any lot, including price or value, are either statements of opinion only or may be revised prior to the lot being offered for sale (including whilst the lot is on public view);
- c. None of Duveen company's and any possibly with Duveen affiliated companies, agents, employees or director thereof shall be liable to any errors or omissions in any such representations.

## **6. Limitation on claims by Buyers**

Without prejudice to condition 3 and 5 above, and save insofar as it relates to any liability which we may have to personal injury or death, any claim against Duveen by the Buyer shall be limited to the Hammer Price and the Buyer's Premium actually paid by the Buyer to Duveen with regard to that lot.

## **SELLER'S LIABILITY TO BUYERS**

### **7. Seller's obligations to Buyers**

The Seller's obligations to you are limited to the same extent as our obligations to you. Any express or implied conditions or warranties are excluded save insofar as it is not possible to exclude obligations implied by statute. In addition, we reserve the right to agree variations to the Seller's warranties with the Seller.

## **AT THE SALE**

### **8a. Rights of participation at auction**

Duveen have the right, at their absolute discretion, to refuse to allow any person to participate in their auctions and to refuse admission to their premises to any person.

### **8b. Employee Bidding**

Duveen employees may bid in a Duveen auction only if the employee does not know the reserve and if the employee fully complies with Duveen internal rules governing employee bidding.

### **9a. Sale Room Bidding**

To assist the progress of the sale, all intending buyers are asked to collect a bidding card before the commencement of selling. The numbered card may be used to indicate your bids to the auctioneer during the sale. Should you be the successful buyer of any lot, please ensure that your bid card can be seen by the auctioneer and that it is your number that is called out. Should there be any doubt as to price or buyer, please draw the auctioneer's attention to it immediately. All lots sold will be invoiced to the name and address given against the issue of the numbered bid cards. Please do not mislay your bid card, in the event of loss, inform the sales clerk. At the end of the sale please return your bid card to the reception desk. This system does not apply to commission/order bidders. For bidding on our 'online' auctions, please consult our website: [www.duveen.com](http://www.duveen.com).

### **9b. Bidding as principal**

If you make a bid at auction, you do so as principal and will be held personally and solely liable for that bid unless we have previously agreed with you in writing that you do so on behalf of an identified third party who is acceptable to us. In circumstances where we have so agreed, both you and the third party will be jointly and severally liable for all obligations arising from the bid and the third party shall be bound by the Conditions of Business by your bidding as his agent in the same way as if he were bidding personally, even if the terms of the Conditions of Business are not known by such third party. You shall be responsible for informing your principal of the terms of the Conditions of Business.

## **10. Commission and telephone bids**

Although your interests are likely to be best served if you attend auctions in person, you may bid by leaving a commission bid or bid by telephone as set forth below. This service is free. Lots will always

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be bought as cheaply as is allowed by other bids and reserves. Absentee bids when placed by telephone, are accepted only at the sender's risk and must be confirmed by E-mail, fax or letter. Your absentee bid form must be delivered to us at least twenty-four hours before the beginning of any auction session. For bidding on our 'online' auctions, please consult our website: [www.duveen.com](http://www.duveen.com) ;

- a. Commission bids by post, fax or E-mail
- b. We will seek to carry out any instructions to bid at an auction on your behalf which we receive from you sufficiently in advance of the sale and which we consider, in our discretion, to be sufficiently clear and complete. If we receive commission bids on a particular lot for identical amounts, it will be sold to the person whose bid was received first by us. However, our obligation in relation to commission bids is undertaken subject to our other commitments at the time of sale and the conduct of the sale may be such that we are unable to bid as requested. We cannot accept liability for failure to make a commission bid for any reason. You should therefore attend personally or send an agent to the auction if you wish to be certain of bidding. For bidding on our 'online' auctions, please consult our website: [www.duveen.com](http://www.duveen.com).
- c. Telephone bids
- d. We may be prepared to allow you to bid by telephone, but, in such circumstances, we reserve the right to require you to confirm relevant details in writing before we agree to do so. You shall confirm your telephone bid to Duveen at least one day before the auction. We are not responsible for the failure of any telephone bid for any reason. We reserve the right to record telephone bids
- e. E-mail address for bids only on: [info@duveen.com](mailto:info@duveen.com)
- f. Fax numbers for bids only on:
- g. For bidding on our 'online' auctions, please consult our website: [www.duveen.com](http://www.duveen.com).

Please note: Duveen offer this service as a convenience to their clients who are unable to attend the sale. However, neither Duveen nor their servants are responsible for any neglect or default in doing so or for failing to do so.

## 11. Conduct of the auction

The auctioneer will commence and advance the bidding in levels that he/she considers appropriate in the light of the value of the lot under auction and of competing bids. The auctioneer is entitled to make the consecutive bids on behalf of the Seller up to the Reserve placed on the lot, although the auctioneer will not indicate during the auction that he is making such bids on behalf of the Seller. The Buyer acknowledges the rights of the auctioneer and the Seller set out in this condition and waives any claim that he might have in this connection against Duveen or the Seller. For bidding on our 'online' auctions, please consult our website: [www.duveen.com](http://www.duveen.com).

## 12. Sale of a lot and buyer's premium

The person who makes the highest bid accepted by the auctioneer 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. For bidding on our 'online' auctions, please consult our website: [www.duveen.com](http://www.duveen.com).

## 13. Auctioneer's discretion

Notwithstanding conditions 11 and 12 above, the auctioneer has absolute discretion at any time during the course of the auction to:

- a. withdraw any lot;
- b. re-offer a lot for sale if the auctioneer reasonably believes that there is an error or dispute;
- c. take such other action as he reasonably thinks fit in the circumstances.

## 14. Currency converter

Auctions are conducted in Pounds.

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## 15. Video images

At some auctions, there will be a video screen in operation for the convenience of both Buyers and Sellers. Errors may occur in the operation of the video screen. We cannot accept responsibility either for the quality of the image produced on the video screen, nor for the correspondence of the screen image to the original.

## AFTER THE SALE

### 16a. Payment and Buyer's premium

Immediately after the conclusion of the relevant session of the auction in which the lot was sold, you shall pay us the Total Amount Due (including Buyer's Premium or any other cost). Next to the highest bid, the buyer has to pay also a buyer's premium.

The buyer's premium in a Sale Room Bidding payable by the buyer of each lot is a rate of 30 %.

The buyer's premium in an Online Sale Bidding payable by the buyer of each lot is a rate of 20%.

### 16b. Methods of Payment

1. Cash: The Conditions of Business require buyers to pay immediately for their purchases by cash. Cash payments are accepted to a maximum of € 10.000 or an equivalent in other currencies, excluding foreign payment exchange rate costs of 2 %. This is also applicable for payments in instalments.
2. Bank: Please state your account number and invoice number as reference with your payment. For transactions by computer, please contact our office: [info@duveen.com](mailto:info@duveen.com)

An official proof of identification may be requested.

### 16c. VAT Information for Buyers

Since January 1st 1995 purchasers of items imported from countries outside the EU are subject to VAT of 21% on the sale price (hammer price plus premium). These lots are indicated in the catalogue by an asterisk (\*)

Duveen will charge nil (0) percent VAT on these lots if the buyer fulfils the following conditions:

- the purchaser is registered for VAT in another EU country and his VAT number is known to Duveen;
- the purchaser signs a statement that the lots are being transported to his country of residence. Purchasers from countries outside the EU who provide customs certified proof of direct export of these items within 30 days of purchase, can be refunded the VAT. Receipts must be returned to Duveen within 2 months of purchase. Non-EU residents will be required to provide either a certified document of exportation or certified documentation from the country of importation.

## 17. Collection of purchase

You shall collect the purchased lot, at your expense, no later than five (5) working days after the last day of the sale. The lot shall not be released to you before you have fully complied with all your obligations to Duveen.

## 18. Passing of title

You shall always remain liable for the Total Amount Due and you shall not acquire title to the lot sold until you have made payment in full of the Total Amount Due in respect of that lot and Duveen have applied such payment to the lot. Any monies received from you shall be applied in order of the oldest debt owed by you to Duveen or the oldest purchase made by you at Duveen having regard to the date of the sale and the number of the lot.

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## 19. Transfer of risk

Any lot purchased is entirely at your risk from the earlier of:

- a. the time you collect the lot purchased;
- b. the time that you pay us the Total Amount Due for the lot;
- c. three (3) working days after the last day of the sale.

You shall be solely responsible for insuring the lot purchased from the time risk passes to you. You will be compensated for any loss or damage to the lot which occurs after sale but prior to the time risk passes to you. The maximum amount of compensation shall be the Hammer Price of the lot plus the Buyer's Premium received by Duveen, and shall exclude any indirect or consequential loss or damage. However, we will not, in any circumstances, be liable for any loss or damage caused to frames or to glass which is covering prints, paintings or other works unless the frame or glass itself is, in itself, the object sold at auction. Nor will we be liable for loss or damage caused by any of the events set out in condition 8 under a. through e. at The Condition of Sellers.

## 20. Packing and handling

The packing and handling of lots is entirely at your risk and expense and we shall not, in any circumstances, be responsible for any acts or omissions of packers or shippers.

## 21. Export

The export of any lot from the UK and Netherlands or import into any other country may be subject to one or more export or import licenses being granted. It is the Buyer's responsibility to obtain any relevant export or import license. The denial of any export or import license required or any delay in the obtaining of such license shall not justify the rescission or cancellation of the sale by you or any delay by you in making payment of the Total Amount Due for the lot.

## 22. Remedies for non-payment

If the Total Amount Due is not paid in accordance with condition 16, we shall, in our discretion and without prejudice to any other rights which we and the Seller may have, be entitled, both for ourselves and as agent for the Seller, to exercise any or more of the following rights or remedies:

- a. cancel the sale of the lot in which case you shall be liable for any damages that we may suffer. Damages will in any case be equal to the Total Amount Due plus any Expenses;
- b. apply any payments made by you to us as part of the total Amount Due or otherwise towards any costs incurred in connection with the (re)sale of the lot;
- c. arrange and carry out a resale of the lot by public auction, on our online website or on a private sale in mitigation of the debt owed by you to us;
- d. exercise a lien over any of your property which is in our possession for any reason, until payment of all outstanding amounts due to us have been made in full;
- e. charge you the Seller's and our reasonable legal and administrative costs incurred and set off any amounts owed by us to you against any amounts you owe to us, whether as to the results of any proceeds of sale or otherwise;
- f. charge you interest on all outstanding amounts at a rate of the base rate 1% (one per cent) per month;
- g. insure, remove and store the lot either at our premises or elsewhere at your sole risk and expense;
- h. reject any bids made by you or on your behalf at any future auction or require you to make a deposit with us before accepting any such bids.

## You and the Seller:

- a. consent to and authorize us to arrange and carry out such resale on the Conditions of Business applicable at the time of such resale;

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- b. agree that the level of the Reserve and the estimates relevant to such resale shall be set out at our sole discretion. The Net Sale Proceeds will be applied in reduction of your debt. If a resale should result in a lower price than the original Hammer Price obtained, we and the Seller will be entitled to claim the balance from you together with any costs incurred in connection with your failure to make payment. If the resale should result in a higher price than the Hammer Price obtained, the surplus shall be paid to the Seller.

## 23. Remedies for failure to collect purchases

If you do not collect a purchased lot within five (5) working days after the sale, we may arrange storage of the lot at your risk and expense.

## SECTION C

### USED TERMINOLOGY AND SAFETY AT DUVEEN

The following are examples of the terminology used in this catalogue and/or on our online website. Any statement as to authorship, attribution, origin, date, age, provenance and condition is a statement of opinion and is not to be taken as a statement of fact.

Please read carefully the terms of the Authenticity Guarantee and the Conditions of Business for Buyers set out in this catalogue, in particular conditions 3 and 4.

#### 1. DAVID TENIERS

In our opinion a work by the artist. When the artist's forename(s) is(are) 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 named.

#### 2. ATTRIBUTED TO DAVID TENIERS

In our opinion probably a work by the artist, but less certainty as to authorship is expressed than in the preceding category.

#### 3. STUDIO OF DAVID TENIERS

In our opinion a work by an unknown hand in the studio of the artist which may or may not have been executed under the artist's direction.

#### 4. CIRCLE OF DAVID TENIERS

In our opinion a work by an as yet unidentified but distinct hand, closely associated with the named artist but not necessarily his pupil.

#### 5. STYLE OF .....; FOLLOWER OF DAVID TENIERS

In our opinion a work by a painter working in the artist's style, contemporary or nearly contemporary, but not necessarily his pupil.

#### 6. MANNER OF DAVID TENIERS

In our opinion a work in the style of the artist and of a later date.

#### 7. AFTER DAVID TENIERS

In our opinion a copy of a known work of the 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 a signature and/or date and/or inscription means that in our opinion the signature and/or date and/or inscription have been added by another hand.

10. Dimensions are given height before width.

### SAFETY AT DUVEEN

Duveen are concerned for your safety while you are on our premises and we endeavour to display items safely so far as is reasonably practicable. Nevertheless, should you handle any items on view at our premises, you do so at your own risk. Some items can be large and/or heavy and can be dangerous

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if mishandled. Should you wish to view or inspect any items more closely please ask for assistance from a member of Duveen staff to ensure your safety and the safety of the property on view. Some items on view may be labelled 'PLEASE DO NOT TOUCH'. Should you wish to view these items you must ask for assistance from a member of Duveen staff, who will be pleased to assist you.

Any notice sent to us shall be sent to;

**Duveen Auctions, Stationsstraat 36, 7741 EK, Coevorden, The Netherlands.**

These Conditions of Business have been deposited with the Chamber of Commerce at Zwolle in the Netherlands, under number: **73618101**

## **IMPORTANT INFORMATION FOR SELLERS**

### **SECTION D**

#### **CONDITIONS MAINLY CONCERNING SELLERS**

##### **1. Sellers warranties**

This condition governs your relationship with both the Buyer as ourselves, if we or the Buyer consider any of the warranties listed below to be breached in any way, either we or the Buyer may take legal action against you. You agree to indemnify Duveen, their 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. Where we reasonably believe that any breach of such representation or warranty has occurred, you authorize Duveen in its sole discretion, to rescind the sale.

You warrant to us and to the Buyer 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 authorized to sell the property by the true owner;
- b. you are able to and shall, transfer possession to the Buyer 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 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, conditions, authenticity, attribution, export or import of the property;
- d. you are unaware of any matter or allegation which would render any description given by us in relation to the lot inaccurate or misleading;
- e. where the property has been moved to the European Union from a country that is not a member of the European Union, the property has been lawfully imported into the European Union;
- f. the property has been lawfully and permanently exported as required by the laws of any country in which it was located;
- g. required declarations upon the export and import of the property have been properly made, any duties and taxes on the export and import have been paid;
- h. you have paid 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/or 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 of 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;

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- j. 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.

## **BEFORE THE SALE**

### **2. Preparation for sale**

You agree that we have sole and absolute discretion as to;

- a. the way in which property may be combined or divided into lots for sale;
- b. the way in which lots are included in the sale;
- c. the way in which any lot is described and illustrated in the catalogue or any condition report;
- d. the date and place of the auction(s);
- e. the manner in which any sale is conducted.

We reserve the right to 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 either before or after the sale 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. We are entitled to publicize the results of such test in any manner we deem appropriate, including by informing the Buyer of the property.

### **3a. Estimates**

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.

### **3b. Exclusion of liability**

Any representations, written or oral and including those in any catalogue, report, commentary or valuation in relation to any aspect of quality of any lot, including price or value;

- a. are statements of opinion only;
- b. may be revised prior to the lot being offered for sale (including whilst the lot is on public view)
- c. Duveen shall not be liable for any errors or omissions in any such representations.

### **3c. Limitations on claims by Seller**

Any claim by the Seller (excluding covered by condition 7) shall, in any event, be limited to the Net Sale Proceeds in respect of that lot.

### **4. Withdrawal of lots by you**

If you choose to withdraw property from the sale;

- a. after the earlier of your written agreement to sell the property with us;
- b. from 16 weeks before the date of the auction of the property, you will be liable to pay us a withdrawal fee calculated in accordance with condition 6 below.

### **5. Withdrawal of lots by us**

We may withdraw a lot from sale without any liability (including, but not limited to) if;

- a. we reasonably believe that there is any doubt as to its authenticity or attribution;
- b. it is established or alleged that any of the Seller's representations or warranties set out in condition 1 above are inaccurate in any way;
- c. you breach any provisions of the Conditions of Business in any material aspect;

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- d. the lot contains any endangered species for which a CITES 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;
- e. we consider the lot to be of insufficient sale value;
- f. 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;
- g. the auction at which it was proposed to sell the lot is postponed for any reason.

## 6. Withdrawal fee

If the property is withdrawn because the circumstances described in any of stipulations a through g of condition 5 above occur, then you shall not be charged with a withdrawal fee and the property shall be returned to you at our expense. If, however, the property is withdrawn for any other reason, 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. The rate of the Seller's Commission shall be the rate applicable at the time of consignment of the withdrawn lot. 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.

## 7. Risk of loss or damage 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 condition 7, bear the risk of loss or damage in any lot from the time we receive such property until;

- a. risk passes to the Buyer of the lot following sale of the lot;
- b. twenty-one (21) days after the relevant auction, if the lot is unsold;
- c. three (3) 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 1.5% (one and a half per cent) of;

- a. the Hammer Price, if the lot is sold;
- b. the Reserve price, if the lot is unsold;
- c. the Mid Pre-Sale Estimate, if the lot is not offered for sale for any reason;
- d. 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.

Where the latter a. above applies, you agree that we may deduct such a sum from the Hammer Price of the lot.

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 the latter a through d above, as applicable, less Seller's Commission plus Expenses and any applicable VAT on each of the Seller's Commission and Expenses. If the property is partially damaged or partially lost and has depreciated in value, in our opinion, by less than 50% (fifty per cent), we shall either:

- a. pay you the amount of depreciation and the property will be offered for sale; or pay you for the property as set forth in the preceding sentence, and you will no longer own the property.
- b. 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;
- c. any third party whom we have instructed to deal with the property with your consent;
- d. changes in humidity or temperature;
- e. normal wear and tear, gradual deterioration or inherent vice or defect;

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- f. errors in processing, other than where the loss or damage is caused by Duveen wilful misconduct or gross negligence;
- g. war, weapons of war employing atomic fission, or radioactive contamination.

## **8. Risk of loss or damage: cover arranged by you**

If you do not wish us to bear the risk of loss or damage cover in any lot delivered to us as set out in condition 30, you must agree this with us in writing at that time. In the event that you agree this with us, you will maintain insurance cover for the lot with a first rate insurance company until the Buyer has made payment for the lot in full. In such circumstances you agree to:

- a. provide us with a copy of a certificate of insurance for the lot;
- b. 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;
- c. indemnify us against any claim for loss, damage or costs in respect of the lot, however that claim may arise. You agree that by your accepting these conditions you will be deemed to have provided us with an indemnification to that effect;
- d. notify your insurer of the terms of the indemnity set out in c. above;
- e. reimburse us on demand for all payments, costs or Expenses including legal fees which we incur as a result of any claim;
- f. 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 a. and b. above within ten (10) days of delivery of any lot to us, we shall bear the risk of loss or damage in the lot in accordance with the terms of condition 7 above. We shall bear such risk of loss or damage from the start of the eleventh day following the day of delivery of the lot to us. If any loss or damage should occur to the lot after that time, our liability to you shall be limited to the excess, if any, of the relevant amount set out in the latter a through d of condition 7 above, over 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 there under.

## **9. Reconsignment**

Not yet applicable.

## **AT THE SALE**

### **10. Reserves**

Unless otherwise agreed in writing, each lot will be offered with no reserve. If a Reserve is agreed in a currency other than sterling and the exchange rates fluctuate between the time the Reserve agreed and the day of the auction, the Reserve shall be an amount equal to the sterling equivalent based on the closing exchange rate available on the business day immediately preceding the auction.

### **11. Bidding at the sale**

You may not bid for your own property. Although we shall be entitled to 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 unsuccessful bidder. In those circumstances, you shall not be entitled to benefit of conditions 3 and 10 above and you shall pay us a sum representing the total of the Seller's Commission, the Buyer's Premium and all Expenses which we have incurred in connection with the sale of the lot. We shall be entitled to exercise a lien over the lot until payment of that sum has been made by you in full.

## **AFTER THE SALE**

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## **12. Payment to be made by you to us following the sale,**

you will be liable to pay us the following sums:

- a. the Seller's Commission;
- b. Expenses.

We shall be entitled to deduct each of these items from monies received from the Buyer. You authorize Duveen to charge the Buyer and retain the Buyer's Premium.

## **13. 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 of any ground in these conditions of Business which entitles the Buyer to do so, which will be decided by Duveen in their sole discretion, we shall send to you on the twenty-first (21.) 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. You should note that 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 twenty-one (21) days after the final day of the relevant sale, we shall send you the Net Sale Proceeds less any other amount you owe us within five (5) working days of receipt of cleared funds.

## **14. Rescission**

Where we are satisfied that the lot is a counterfeit, we shall rescind the sale and notify you of such rescission. We shall, in our absolute discretion, be entitled to dispense with the requirements of condition 3 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 you any Net Sale Proceeds previously paid by us to you in connection with the 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 the Net Sale Proceeds of the lot if, for reasons beyond our control, we cannot return the lot to you.

## **15. 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 agree to inform us of any action which you choose to take against the Buyer to enforce payment of the amount due to you. On request, we will inform you of any action being taken against the Buyer and shall give consideration to any views you may express to us on the appropriate course of action to take to recover the amount due. 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. For the avoidance of doubt, we shall have the benefit of all your representations, warranties and indemnities set out in these Conditions of Business.

## **16. Post-auction sales**

If any lot fails to sell at auction, we shall be entitled for a period of forty (40) days following the auction to sell the lot. 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 the 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 a lot are the same as if the lot had been sold at auction. Any reference in the Conditions of Business to the date of the auction shall be treated as being a reference to the date of the post-auction sale.

## **17. Unsold lot**

We will send you a notice to the address given on the relevant property receipt form if any lot fails to sell at auction. If such lot has not been sold privately pursuant to condition 16 above, you shall either reconsign the lot to us for re-sale or, alternatively, collect the lot from us. If you decide to collect the lot, we reserve the right to charge you a reduced commission amounting to 50% (fifty per cent) of the Seller's Commission, plus Expenses. The Seller's Commission shall in these circumstances be calculated

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as if the lot had sold at the Reserve price. The rate of Seller's Commission shall be the rate applicable at the date of the auction.

If you fail either to reconsign or collect the lot as set out above within thirty (30) days of the auction, we shall, in our sole discretion, be entitled to:

Store the lot at an independent storage facility at your risk and expense;

Re-offer the lot for sale at public auction with a reserve no less than 50% (fifty per cent) of the original Reserve. In the event of such re-sale, we shall be entitled to deduct from the Hammer Price the reduced commission in respect of the initial sale plus Expenses. We reserve the right to charge you our reasonable legal and administrative costs incurred.

Any re-sale shall be conducted under the Conditions of Business printed in the sale catalogue of the relevant sale, save only that, as between you and us, these Conditions of Business shall continue to apply and shall prevail in the event of any conflict.

## SECTION E

### 18. Photographs and illustrations

You agree that we shall have the absolute right (on a non-exclusive basis) to photograph, illustrate or otherwise produce images of any lot consigned to us for sale. We shall retain copyright on all images created by us of any lot and shall have the right to use such images in whatever way we deem appropriate, both before and after the auction.

### 19. Value added tax

Where these Conditions of Business refer to an obligation to make payment by Buyer or Seller, the Buyer or Seller (as applicable) shall be liable to pay any VAT required by law or, if applicable, any amount in lieu of VAT.

### 20. Export/import and embargoes

No representations or warranties are made by Duveen or the Seller as to whether any lot is subject to any export restrictions from the United Kingdom or any import restrictions of any other country. Similarly, we make no representations or warranties as to whether any embargoes exist in relation to particular lots.

### 21. Severability

Even if Duveen may have condoned arrangements which deviate from these conditions, either explicitly or implicitly, these conditions will remain fully valid and enforceable and Duveen remain entitled to insist on full compliance with these conditions. If a court of law would hold that one or more of the conditions in these conditions of Business would be contrary to any legal provision, such a judgment will not have any effect on the validity of the rest of the conditions. The relevant condition will in that case be deemed to have been replaced by a legally acceptable condition which is as much as possible of similar purpose and effect as the invalid condition.

### 22. Personal details

Duveen will use information provided by their clients of which Duveen otherwise obtain relating to their clients for the provision of auction and other art-related services, real estate and insurance services, client administration, marketing and otherwise to manage and operate their business, or as required by law. Some gathering of information about Duveen clients may take place using technical means to identify their preferences and provide a higher quality of service to them, and Duveen may gather information about their clients through video images or through the use of monitoring devices used to record telephone conversations.

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Duveen will generally seek clients' express consent before gathering any sensitive data, unless otherwise permitted by law. Duveen may use any sensitive information that you supply to Duveen for the above purposes.

By agreeing to these terms, you agree to the processing of your personal information and also to the disclosure and transfer of this information to third parties anywhere in the world for the above purposes, including to countries which may not offer equivalent protection of personal information for marketing purposes at any time by notifying Duveen.

## **23. Copyright**

No representations or warranties are made by either the Seller or Duveen as to whether any lot is subject to copyright, not as to whether the Buyer acquires any copyright in any lot sold.

## **24. Introductory commissions**

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

## **25. Assignability**

These Conditions of Business shall not be assignable by the Buyer or the Seller without the prior written agreement of Duveen. However, these Conditions of Business shall be binding on any of your successors, assigns, trustees, executors, administrators and representatives.

## **26. Special terms**

Where terms have special meanings ascribed to them, a glossary may appear before the first lot in the relevant catalogue.

## **27. Governing law and jurisdiction**

These Conditions of Business and any amendment to them shall be governed by and interpreted and construed in accordance of the law of the Netherlands. Any dispute or claim arising out of or in connection with these terms and conditions of business or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, Dutch law, and the parties irrevocably submit to the exclusive jurisdiction of the courts of the Netherlands

## **28. Domicile**

All Buyers and Sellers (and any prospective Buyers or Sellers) irrevocably agree that all notifications, communications and service of process may be sent to your last address known to us