

## TERMS AND CONDITIONS OF SALE

### 1. INTRODUCTION

The following defining terms are used in these conditions:-

“Auction”	Means any auction conducted by Clarke and Simpson Auctions Ltd. either at the premises owned by them or elsewhere (including any internet-based auction);
“Auctioneer”	Means Clarke and Simpson Auctions Ltd. authorised auctioneer as appropriate together with any on-line platform;
“Bidder”	Means a bidder at an auction, including the bidders personally present at the venue and those bidding by commission bid, telephone or over the internet or otherwise;
“Buyer”	Means the bidder whose bid was the last bid when the auctioneer concludes the bidding;
“Conditions”	Means these Terms and Conditions of Sale;
“Hammer Price”	Means the level of bidding reached (at or above any reserve) when the auctioneer brings the bidding to a close;
“Lot”	Means any property accepted by Clarke and Simpson Auctions Ltd. for offer at auction;
“Vendor”	Means the seller of any lot offered by auction;

### 2. DESCRIPTION

No warranty is given or implied by the description in the catalogue. Each lot is sold in its condition at the time of sale with all faults, defects, imperfections and errors of description (if any). Where books are offered, they have not been collated and not subject to return. Whilst every endeavour has been made to describe the items adequately and properly, the buyer shall deem to have inspected the lot at time of purchase in person. All catalogues, condition reports and sellers and buyers' guides are for information only and do not form part of the contract.

### 3. STATUTORY REQUIREMENTS

Buyers will be deemed to have satisfied themselves prior to purchasing regarding current legal requirements (e.g. Health & Safety at Work Act) and it is expressly brought to the bidder's attention that equipment in the sale may not necessarily comply with such regulations. Any buyer shall satisfy himself as to any statutory requirement for the use of any item and no liability shall rest with the vendors nor the Auctioneers.

### 4. THE AUCTION

All auctions are conducted at the absolute discretion of the auctioneer. The auctioneer shall conduct the auction with reasonable skill and care. The vendor reserves the right to sell subject to reserve price in respect of all lots. What constitutes a bid shall be at the absolute discretion of the auctioneer, acting with appropriate skill and care. The auctioneer shall have the right to refuse any bid in all cases but most notably when such a bid does not exceed the previous bid by at least 10% or such a proportion as the auctioneer shall in his absolute discretion direct. Where two or more bids at the same level are simultaneously received by the auctioneer, the auctioneer at his absolute discretion shall determine which bid to prefer. Subject to the foregoing where two or more bids are at the same level are simultaneously received by the auctioneer, the bid submitted in the room shall take preference over a bid submitted by telephone or internet at the same level. Any bid made or attempted by telephone or over the internet will only be deemed to have been made if received by the auctioneer. The auctioneer reserves the right to withdraw, consolidate or divide any lot or lots or submit them in any order that they desire. The auctioneer

has the right at his absolute discretion to refuse admission to his premises or attendance at (or participation in) any auction by any person. In the case of any dispute, the auctioneer shall be sole arbitrator in any matters arising during or out of the sale.

## 5. BIDDERS

All bidders will be required to register their particulars, bidders attending in person and those accompanying them will be required to provide photo ID and separate confirmation of address prior to viewing or taking any part of the sale and before entering any part of the premises to view. All bidders accept full liability for all bids submitted. Subject to the clause in this document headed "The Auction", the highest bidder at the close of bidding shall be the buyer. Any dispute about a bid shall be settled at the auctioneer's absolute discretion.

Bidders are all deemed to act as principles unless there is prior written acknowledgement by Clarke and Simpson Auctions Ltd. that a bidder is acting as an agent for a named principle. Bidders are strongly encouraged to attend the auction in person. The bidders shall be responsible for any decision to bid for a particular lot and shall be deemed to have carefully inspected and satisfied themselves as to condition, neither Clarke and Simpson Auctions Ltd., their employees or agents shall be responsible for any neglect or default in doing or failing to do so. Bidders will be given ample opportunity to view and inspect before the sale and they must satisfy themselves as to all matters.

## 6. DEFAULT

Clarke and Simpson Auctions Ltd. shall act as agent of the vendor only. Any contracts for the sale of a lot shall be formed between the vendor and the buyer. As agent, only Clarke and Simpson Auctions Ltd. shall not be responsible for default by the vendor or the buyer. If any lot is not paid for in full and taken away in accordance with these conditions, or there is any other breach of the conditions, then Clarke and Simpson Auctions Ltd. as agents for vendor shall at its absolute discretion and without prejudice to any other rights it may have, be entitled to exercise all or any of the following rights and remedies:-

- 6.1 to proceed against the buyer for any action of debt or damages for breach of contract;
- 6.2 to rescind the sale of that lot or lots sold by Clarke and Simpson Auctions Ltd. to a defaulting buyer;
- 6.3 to resell the lot (by auction or private treaty) in which case the defaulting buyer shall be responsible for any resulting deficiency in the total amount due (after crediting any part payment and adding any resale costs), any possible surplus so arising shall belong to the vendor;
- 6.4 to remove, store and ensure the lot at the expense of the defaulting buyer and, in the case of storage, the location of such storage shall be at Clarke and Simpson Auctions Ltd. discretion;
- 6.5 to charge interest at a rate not exceeding 2% per month of the total amount due to the extent that it remains unpaid for more than five working days after the sale;
- 6.6 to retain any lot sold to the defaulting buyer until the buyer pays the total amount due;
- 6.7 to reject or ignore bids from the defaulting buyer at future auctions or to impose conditions before any such bids are accepted;
- 6.8 to apply any proceeds of sale for any other lots due or in the future becoming due to the defaulting buyer towards the settlement of the total remaining due.

## 7. INDEMNITIES, PENALTIES AND LIMITATIONS OF LIABILITY

Buyers shall pay for any damage done by themselves or their agents during the removal of their lots. Attendance at the sale shall be at the risk of those attending in respect of both them and to their goods and vehicles.

Any indemnity under these conditions will extend to all actions, costs, expenses, claims and demand whatsoever suffered or incurred by the person entitled to the benefit of it and Clarke and Simpson Auctions Ltd. declare themselves to be a trustee of the benefit of such indemnity so far as it is expressed to be the benefit of its employees and agents.

Whilst Clarke and Simpson Auctions Ltd. endeavour to ensure that the information on their websites is correct, they do not warrant the accuracy and completeness of the material on their or any website. Also, Clarke and Simpson Auctions Ltd. can make changes to the material on their or any website, or alter the products and prices described on it, at any time without notice. The material on the website(s) may be out of date, Clarke and Simpson Auctions Ltd. make no commitment to update such material. All material on the website(s) is provided "as is" without any conditions, warranties or other terms at any time. Accordingly, to the maximum extent permitted by law, the website(s) is provided to all parties on the basis that Clarke and Simpson Auctions Ltd. exclude all representations, warranties, conditions and other terms which, but for this legal notice, might have effect in relation to the website(s).

## 8. ELECTRICAL SAFETY REGULATIONS

All electrical lots are subject to electrical safety regulations and fall within "The Low Voltage Electrical Equipment (Safety) Regulations 1989" – all items have been PAT tested for safety but are not guaranteed to be in working order.

## 9. GENERAL MATTERS

Any notice to any buyer, vendor, bidder or viewer may be given by first class mail or email in which case it shall be deemed to have been received by the addressee forty-eight hours after posting or sending. All notices to Clarke and Simpson Auctions Ltd. must be sent in writing and email is not acceptable. Any indulgence extended to any person by Clarke and Simpson Auctions Ltd., notwithstanding the strict terms of these conditions or the terms of consignment, shall affect the position at the relevant time only and the respect of that particular concession only; in all other respects these conditions shall be construed as having full force and effect. These conditions and any disputes or claims arising out of or in connection with them or their subject matter or formation (including non-contractual disputes or claims) are governed by and construed in accordance with the law of England. The parties irrevocably agree that the courts of England have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with the agreement or its subject matter or formation (including non-contractual disputes or claims).

## 10. PUBLICITY

Any catalogue and buyer and seller guides are provided for information only and do not form part of these conditions. The catalogue and the buyer and seller guides may contain additional terms and conditions. Clarke and Simpson Auctions Ltd. reserve the right to use any photographs, videos, background information and research for any publicity purposes before, during and after the sale.

## 11. THE PURCHASE PRICE AND PAYMENT ARRANGEMENTS

There is a buyer's premium of 20% plus VAT payable in respect of the sale. Any purchases made via one of the online portals shall be subject to an additional internet surcharge. The current rates being as follows:

Monday, Fine Art, Art Deco and Rural Bygones being 5% of the hammer price plus VAT (3% through

[www.clarkeandsimpson.co.uk](http://www.clarkeandsimpson.co.uk)). Farm Machinery being 2% of the hammer price plus VAT.

Preferred payment is bank transfer, personal debit card or via the payment request from the on-line platform. No payment over £350 will be accepted by telephone. We do not accept cash, cheques, credit cards, business debit cards or international debit cards. Payment is due on the day of the sale, and no later than two working days following the day of sale. All money received will be held in Clarke & Simpson Auctions Ltd. Clients No 2 Account at Barclays Bank plc, Suffolk. Account Number 83428591. Sort Code 20 98 07. Clarke and Simpson Auctions Ltd. have no responsibility for any lot between the close of bidding and payment being made and subsequent collection. All payments from overseas buyers shall be made by Bank Transfer and bank fees paid in addition. Please note all policy regarding payment will be enforced and suitable arrangements must be made.

## 12. REMOVAL OF LOTS

The ownership of any lot purchased shall not pass to the relevant buyer until they have made payment in full to Clarke and Simpson Auctions Ltd.

The buyer shall be responsible for ensuring their purchases and at their own risk and expense take away any lot that they have purchased and paid for no later than five working days following the day of the auction.

Any lot which remains uncollected by the buyer, regardless of payment status, after 10 working days following the day of the auction shall be resold. These lots shall be sold on behalf of the buyer if paid for and all proceeds retained in lieu of storage or on behalf of the vendor if not paid for. Buyers will not be chased to collect during this period and collection is entirely their responsibility to arrange.

Removal of items from the room will be the responsibility of the buyer and they will be liable for any damage arising from the removal.

## 13. NUMBER BIDDING

This will be used for speed and efficiency as in all our sales. All parties wishing to bid must complete a registration form and register in the office on the view day or morning of sale to receive a number for bidding.

Please also note that photo ID and additional confirmation of address will be required.

## 14. ONLINE BIDDING

Clarke & Simpson Auctions Ltd. offer an online bidding service via the-saleroom.com, bidspotter.co.uk and ibidder.com for those wishing to bid but cannot attend the sale.

In completing the bidder registration on the-saleroom.com, bidspotter.co.uk or ibidder.com and providing your payment card details and, unless alternative arrangements are agreed with Clarke & Simpson Auctions Ltd.:

1. authorise Clarke & Simpson Auctions Ltd., if they so wish, to charge the payment card given in part or full payment, including all fees, for items successfully purchased in the auction via the-saleroom.com, bidspotter.co.uk or ibidder.com, and
2. confirm that you are authorised to provide these payment card details to Clarke & Simpson Auctions Ltd. through the-saleroom.com, bidspotter.co.uk or ibidder.com and agree that Clarke & Simpson Auctions Ltd. are entitled to ship the goods to the card holder name and card holder address provided in fulfilment of the sale.

Please note that any lots purchased through any of the online platforms will be subject to an additional internet surcharge: Monday, Fine Art, Art Deco and Rural Bygones being 5% of the hammer price plus VAT (3% through [www.clarkeandsimpson.co.uk](http://www.clarkeandsimpson.co.uk)). Farm Machinery being 2% of the hammer price plus VAT.

## 15. TELEPHONE BIDDING

We offer a telephone bidding service where possible at specialist sales, but this service can never be guaranteed. No applications for telephone bids will be accepted after the end of the viewing prior to sale day for any sale. All potential telephone bidders must provide a valid landline number and email address and agree that they have read and understood the Terms and Conditions and satisfied themselves regarding any lot in accordance with these Terms and Conditions. No phone bids will be accepted for any lot with a lower guide figure of less than £250.

All those who wish to bid by telephone will be expected to deposit an amount determined by Clarke and Simpson Auctions Ltd. and not less than the minimum guide for all lots that they wish to bid upon into the Clients Account for Clarke and Simpson Auctions Ltd before the sale starts. This payment is not acceptable by card.

In the event of default, this sum shall be retained as part payment or any part may be retained to recover losses under clause 6 of these Terms and Conditions. We will expect payment of the balance owing by BACS on the following day, any payment not met within five working days will result in the forfeiture of the deposit paid.

## 16. AT FAULT (A.F.) LOTS

Certain lots are catalogued at fault (A.F.), damaged, restored etc., however the absence of any such notice does not imply that the piece is free from defects, nor does it indicate that other defects are not also present. Mention is not made of breakage, cracks, chips or any damage which can be noted by careful inspection, therefore those wishing to bid MUST, in all cases, be responsible for determining the condition of the lots themselves, either in person or by request of condition reports or additional detailed photographs.

## 17. ESTIMATES

Presale estimates are intended only as a guide for those wishing to bid, are given in good faith and subject to revision.

## 18. CONDITION REPORTS

Clarke and Simpson are unable to guarantee that requests for Condition Reports/images received will be responded to. Clarke and Simpson are happy to give a Condition Report where possible on the physical condition of goods, this will be provided on behalf of the vendor on the understanding that Clarke and Simpson are not entering into a contract with you in respect of the Condition Report and accordingly does not assume responsibility to you in respect of it. All lots are available for your own inspection or for inspection by an expert instructed by you, therefore these Condition Reports are for guidance only and all lots are sold "as found". Condition Reports do not form part of a contract.

## 19. COMMISSION BIDS

The auctioneers will be pleased to execute bids for those unable to attend the sale. Lots will be purchased at the lowest bid the room bidding, internet bidding or any reserves will allow. In the event of identical bids, the earliest bid received will take precedence. There must always be a maximum limit indicated. Buy or unlimited bids will not be accepted. Commission bids placed by telephone are accepted at the client's risk. We urge our clients to place such bids before the start of the sale. All such commissions are left entirely at the client's risk.

## 20. VALUE ADDED TAX

The symbol \* or V after any lot number or description indicates that Value Added Tax is payable by the buyer on the hammer price.

## 21. AUCTIONEERS MARGIN SCHEME

The Auctioneers Margin Scheme allows auctioneers to sell items without VAT on the hammer price. Under the margin scheme an amount equivalent to VAT at the current rate is added to the buyer's premium. This amount cannot be refunded. The VAT element will not be shown separately on the buyer's invoice. This VAT is not recoverable as Input Tax. We do not allow buyers to opt out of the margin scheme.

## 22. ATTRIBUTION OF PICTURES AND DRAWINGS

Every effort is made to ensure the accuracy of any statements as to authorship, attribution, origin, date, age, provenance and condition of any lot whether or not such statement forms part of the description of any such lot. Whether any such statement is made orally or in the catalogue it is an expression of opinion and not to be taken as being or implying any warranties or representations of facts by the auctioneers. Each buyer by making a bid for a lot acknowledges that he has satisfied himself fully as to the attribution and condition of the lot. The following is for guidance only and does not form part of a contract.

- A. The forename (s) (or full stops where not known) and surname of an artist indicates in our opinion a work by the artist.
- B. The initials of the forename (s) and the surname of the artist indicates in our opinion a work of the period of the artist which may be wholly or in part his work.
- C. The surname of the artist indicates in our opinion a work of the school or by one of the followers of the artist or in his style and of uncertain date.
- D. *Signed, Dated, Inscribed* indicated in our opinion work signed/dated/inscribed by the artist.
- E. *Bears signature* indicates in our opinion that this is not the signature of the artist.
- F. *Attributed to* may be used to denote a traditional attribution based on style.
- G. *Manner of* indicates in our opinion a work executed in the artist/craftman's style but of a later date.
- H. *After* indicates in our opinion a copy (of any date) of work of an artist or craftsman.

The addition of a question mark after any of the cataloguing terms above indicates an element of doubt.

## 23. DROIT DE SUITE ROYALTY CHARGES

All United Kingdom Art Market professionals (which includes auctioneers) are required to collect a royalty payment for all qualifying Works of Art. This applies to living artists and those who have died in the last 70 years. This payment is calculated on qualifying Works of Art which are sold for a hammer price more than the UK sterling equivalent of €1,000 (the UK sterling equivalent will fluctuate in line with prevailing interest rates calculated by the Artist's Resale Right Service Hub, based on the European Central Bank reference rate published at 2.15pm on the day of the sale, and can be found on [www.dacs.org.uk](http://www.dacs.org.uk)).

All items in this catalogue that are marked "✓" are potentially qualifying items, and the royalty charge will apply if the hammer price is more than UK sterling equivalent of €1,000. The royalty charge will be added to purchase invoices and must be paid before items can be cleared. All royalty charges are paid to the design and Artists Copyright Society (DACS) by the auctioneers and no handling costs or additional fees with respect to these charges will be retained by the auctioneer. This charge may also be applicable to lots not marked "✓" and buyers must satisfy themselves.

The royalty charge for qualifying items which achieve a hammer price of more than the UK sterling equivalent of €1,000, but less than the UK sterling equivalent of €50,000 is 4%. For qualifying items that sell for more than the UK equivalent of €50,000 a sliding scale of royalty charges will apply. For a complete list of the royalty charges

and threshold levels please refer to [www.dacs.org.uk](http://www.dacs.org.uk). There is no VAT payable on this royalty charge.

#### 24. ENDANGERED SPECIES

Lots sold at auction may include endangered or other species of wildlife and plant life, for example, tortoiseshell, crocodile skin, whale bone, ebony or rosewood. Some countries restrict or prohibit import or export of objects containing these materials or require a licence/permit for their movement (e.g. a CITES Licence). Prior to bidding on a lot which may include these or similar materials, buyers must familiarise themselves with the relevant laws and regulations regarding their movement.

#### 25. JEWELLERY

Gemstones are often treated to enhance colour and improve appearance. They may be heated or treated by oil or resin to intensify the colour and transparency. Other techniques like dying, irradiation, coating and impregnation can also be used. Buyers must be aware that unless the catalogue specifically states otherwise then the stone is natural, buyers must assume that any treatment may not be permanent, and that special care may be needed in the future.

#### 26. EXPORT

Any lot purchased at auction may be subject to export restrictions and may require a licence for export out of the United Kingdom. The buyer is responsible for obtaining any licences that may be required (including any licence that may be required for import into the destination country) – any denial of such a licence will not be grounds for the buyer to cancel the purchase.

#### 27. THIRD PARTY LIABILITY

All members of the public on Clarke and Simpson Auctions Ltd. premises are there at their own risk and must note the layout of the buildings and site and the appropriate security arrangements. Accordingly, neither the Auctioneer nor its employees or agents shall incur liability for death or personal injury (except as required by law) or similarly for the safety or persons visiting the premises.

#### 28. CONSIGNMENT

All vendors will have received a copy of Clarke & Simpson Auctions Terms regarding consignment of lots for sale and these Terms and Conditions should be read in accordance with this consignment documentation.