

## **Terms Of Participation And Purchase Of Goods By Auction**

### 1. INTERPRETATION

#### 1.1 The definitions in this clause apply to these Terms:

“Bid Slip” means the slip to be completed by a potential buyer prior to participating in an auction in conjunction with Registration.

“Buyer” shall mean the maker of the highest bid accepted by JOHN PYE & SONS whether on the fall of the hammer (when the Hammer Price is achieved) or by private treaty sale.

“Buyer Premium” refers to the premium of between 15% to 22% (as specified in the Important Notes) which is incurred on the Hammer Price of all Lots unless stated otherwise.

“Commission Bids” refers to any proxy bidding taking place in relation to any given auction as notified to JOHN PYE & SONS, including any proxy bids received up to 15 minutes before the relevant auction.

“Contract” means the contract for purchase formed between the Buyer and the Seller once the Hammer Price has been achieved.

“Defaulter’s Entry Fee” means the fee of £130 to be charged to the relevant party in the case of any Lot having to be re-auctioned otherwise than due to a fault of JOHN PYE & SONS.

“Deposit” means the cash (or as otherwise agreed) deposit paid by the potential buyer upon Registration of either £200 or £500 as notified by JOHN PYE & SONS in the Important Notes.

“Good(s)” includes any goods forming a Lot or Lots as described in the relevant Important Notes including but not limited to textile goods, digital, electronic, bespoke, and industrial goods and/or equipment.

“Hammer Price” shall mean the highest bid accepted by JOHN PYE & SONS including any VAT that may be included therein.

“Important Notes” means the notes associated with each auction including but not limited to the Health & Safety notes, viewing times, payment details, collection times, the amount of the Buyer Premium, VAT chargeable, and any other relevant terms relating to that particular auction and/or sale, and which in all cases are governed by these Terms.

“JOHN PYE & SONS” means John Pye and Sons Limited including but not limited to JOHN PYE & SONS who have the conduct of auctions from the rostrum and/or any other authorised representative thereof.

“Lot” means any single Good, group of Goods, or set of Goods sold at an auction on the Premises.

“Main Characteristics” means the description of the core characteristic of the Good (for example whether the Good is a chair, television or necklace).

“Premises” means the premises in which the (JOHN PYE & SONS) auction is taking place, and, where relevant, the location where the individual Lot and/or Lots under the control of JOHN PYE & SONS are stored.

“Registration” means all or any one of the following as appropriate:

- (i) the payment of the Deposit in cash or electronically, or as otherwise notified by JOHN PYE & SONS in the relevant Important Notes; and
- (ii) the presentation of 2 forms of identification acceptable to JOHN PYE & SONS when requested; and
- (iii) the completion and submission of the Bid Slip.

“Seller” includes any prospective seller save where the context otherwise requires.

“VAT” means Value Added Tax. “Working Day” means any day that JOHN PYE & SONS is open to the public for business

- 1.2 The headings of the Terms do not form part of the Terms
- 1.3 Save in the context of any online auctions held by JOHN PYE & SONS where reference to writing will include reference to email, writing or written does not include faxes and e-mail unless otherwise notified by JOHN PYE & SONS
- 1.4 If any of these Terms are inconsistent with any term of the Important Notes, the Important Notes shall prevail
- 1.5 All entries of Goods and the subsequent sale and purchases of Lots at our public auctions (which include our online auctions) are subject to these Terms
- 1.6 All Buyers and Sellers acknowledge and agree that these Terms are binding upon them, and by the Buyers completing Registration, and JOHN PYE & SONS accepting the Sellers’ Good(s) for auction, these Terms are deemed accepted and incorporated into all dealings as between the relevant parties

## 2. ENTRY INTO AUCTION

- 2.1 JOHN PYE & SONS sell as agents for the Seller and as such are not responsible for any default by Seller
- 2.2 Unless otherwise agreed by JOHN PYE & SONS in writing, no Good(s) shall be deemed accepted into any auction unless and until the Seller has produced: -
  - 2.2.1 the Good(s) (to the relevant Premises);
  - 2.2.2 a digital and/or electronic description of the Good(s);
  - 2.2.3 any required entry fee as specified by JOHN PYE & SONS (for the avoidance of doubt, JOHN PYE & SONS reserve the right to charge an entry fee when a Good(s) is entered for auction, such entry fee as will be agreed between the potential seller

and JOHN PYE & SONS at the relevant time, and for the avoidance of doubt, if for any reason the Good(s) is entered for re-sale subsequent to the initial auction (otherwise than due to a fault of JOHN PYE & SONS), then JOHN PYE & SONS will be entitled to charge the Defaulters Entry Fee each time the same Good(s) is re-entered for auction);

- 2.2.4 all other relevant certificates pertaining to the Good(s) which the Seller is reasonably able to produce upon request
- 2.3 Unless otherwise agreed, notwithstanding the production of the items listed in clause 2.2 above, JOHN PYE & SONS has the right to refuse entry of any Good(s) into auction, and to set the entry fee at a reasonable amount deemed appropriate by JOHN PYE & SONS
- 2.4 The Seller warrants to JOHN PYE & SONS and to the Buyer that:
  - 2.4.1 the Seller is the true owner of the Good(s) or is properly authorised to sell the Good(s) by the true owner;
  - 2.4.2 the Seller is able to transfer a good and marketable title to the Good(s) free from any third-party claims; and
  - 2.4.3 every representation made by the Seller (in any form) about the Good(s) is wholly accurate and informed, and the Seller acknowledges that such representations will be relied upon by JOHN PYE & SONS and the Buyer
- 2.5 The Seller will indemnify JOHN PYE & SONS, their servants and agents and the Buyer against any loss or damage suffered by them in consequence of any breach of the warranties set out in clause 2.4 above on the part of the Seller
- 2.6 Unless previously agreed in writing, JOHN PYE & SONS shall remit the proceeds of the sale to the Seller not later than one month after the auction and following the relevant deductions.
- 2.7 Where a Seller cancels instructions for auction of a Lot, JOHN PYE & SONS reserves the right to charge the Defaulter's Entry Fee plus 5% of JOHN PYE & SONS' latest estimate of the auction price of the Lot withdrawn (plus VAT where applicable).
- 2.8 Where any Lot fails to sell, JOHN PYE & SONS will notify the Seller accordingly. The Seller will make arrangements either to re-offer the Lot for auction or to collect the Lot, and if such arrangements are not made:
  - 2.8.1 Within 2 Working Days of notification, then the Seller will be responsible for any removal, storage and insurance expenses of the Lot as notified by JOHN PYE & SONS (unless otherwise agreed); and
  - 2.8.2 Within 4 Working Days of notification, then JOHN PYE & SONS will have the right to sell the Lot at public auction without reserve and to deduct from the Hammer Price any sum owing to JOHN PYE & SONS including removal, storage and insurance expenses, the entry fee in respect of the first auction (together with any VAT chargeable thereon), a Defaulter's Entry Fee, commission on the second auction and all other reasonable expenses before remitting the balance to the Seller

### 3. BASIS OF SALE

- 3.1 All Lots are sold 'as they lie' with all faults and imperfections and errors of description other than those relating to the Main Characteristics. The Main Characteristics do not extend to details of the Good (for example the memory capacity of a laptop, the state of functionality of the Good or the condition of the Good). The absence to any reference to the condition of a Lot does not imply that the Lot is free from faults, imperfections and restorations. Illustrations in catalogues, digital displays or brochures are for identification only. JOHN PYE & SONS will not be held responsible for any damage or defect that has not been notified to the Buyer.
- 3.2 Buyers must satisfy themselves prior to sale as to the condition of each Lot and should exercise and rely on their own judgment as to whether the Lot accords with its description except that JOHN PYE & SONS is responsible for the Main Characteristics. Prospective Buyers bid on the understanding that, inevitably, representations or statements by JOHN PYE & SONS as to authorship, genuineness, origin, date, age, provenance, or condition involve matters of opinion. Neither JOHN PYE & SONS nor our employees or agents nor the Seller accept liability for the correctness of such opinions.
- 3.3 No warranty (written or oral) or other term (whether express or implied and whether implied by statute, common law, custom or otherwise) as to the age, correctness of any, suitability, fitness for purpose, or satisfactory quality of the Lot is given by JOHN PYE & SONS, their servants or agents or by any Seller to any Buyer in respect of any lot, and any express or implied conditions or warranties are excluded to the fullest extent permitted by law. Nothing in this clause shall exclude any express or implied conditions or warranties relating to the Main Characteristics provided by JOHN PYE & SONS. For the avoidance of doubt, the Lots are not sold by sample, and the Buyer shall be deemed to have inspected the Lot(s) he/she buys.
- 3.4 Other than the description of the Main Characteristics provided by JOHN PYE & SONS, no oral or written representation made prior to or at the time of sale of any Lot shall be deemed to be a representation of fact and JOHN PYE & SONS undertakes no obligation or duty (whether in contract or tort or otherwise) in respect of the accuracy or completeness of any statement or representation made by JOHN PYE & SONS or on JOHN PYE & SONS' behalf which is in any way descriptive of any Lot. No such oral or written representations shall be deemed to be incorporated into such sale nor to have induced any potential buyer to bid.
- 3.5 Buyers buy Lots where they lie and are wholly responsible to bring any necessary labour and equipment in order to remove their Lot(s) and shall comply with any directions which may be given by JOHN PYE & SONS as to the safe removal of the Lot(s) and in giving due care to other Lots on the Premises and the Premises itself.
- 3.6 These Terms shall become binding on the Seller and Buyer respectively when: -
- 3.6.1 The Seller's Lot is accepted by JOHN PYE & SONS to be considered for auction.
- 3.6.2 The Buyer completes Registration.
- 3.7 JOHN PYE & SONS has the right to revise and amend these Terms from time to time to reflect changes in market conditions affecting its business, changes in technology, changes in payment methods, changes in relevant laws and regulatory requirements and changes in various systems' capabilities. Buyers and Sellers will be subject to the policies and terms in force at the time these Terms become binding in accordance with clause 3.6 above.

- 3.8 The Buyer acknowledges that a sale by auction IS NOT a consumer sale for the purposes of Consumer Rights Act 2015 and the Buyer shall not seek to rely upon any conditions or warranties implied thereby or by any other legislation, save as set out in s2(6) of the Consumer Rights Act 2015. All lots are Sold as Seen with no grading or guarantees and include second-hand items, salvage, raw returns, ex-display, repossessed and seized goods.
- 3.9 Any estimates provided in respect of a Lot are only an expression of JOHN PYE & SONS' opinion made on behalf of the Seller of the range where JOHN PYE & SONS thinks the Hammer Price for the Lot is likely to fall; it is not an estimate of value. It does not take into account any VAT or Buyer Premium payable. Lots can in fact sell for Hammer Prices below and above the estimate. Any estimate should not be relied on as an indication of the actual selling price or value of a Lot.
- 3.10 Private treaty sales made under these Terms are deemed to be sales by auction for purposes of consumer legislation.
- 3.11 CLOCKS AND WATCHES – The absence of any reference to the condition of a clock or watch does not imply that the Lot is in good condition and without defects, repairs or restorations. Most clocks and watches have been repaired in the course of their normal lifetime and may now incorporate parts not original to them. Furthermore, JOHN PYE & SONS makes no representation or warranty that any clock or watch is in working order. As clocks and watches often contain fine and complex mechanisms, potential buyers should be aware that a general service, change of battery or further repair work, for which the Buyer is solely responsible, may be necessary.
- 3.12 GEMSTONES – Historically many gemstones have been subjected to a variety of treatments to enhance their appearance. Unless stated buyers should presume coloured stones may well have been exposed to some sort of treatment. In the event that John Pye & Sons Ltd has been given or has obtained certificates for any Lot in the Sale these certificates will be disclosed in the description of the item. Neither John Pye & Sons Ltd nor the Seller accepts any liability for contradictions or differing certificates obtained by Buyers on any Lots subsequent to the Sale It is possible that diamonds have been clarity enhanced. Unless stated buyers should presume diamonds may well have been exposed to some sort of treatment. In the event that John Pye & Sons Ltd has been given or has obtained certificates for any Lot in the Sale these certificates will be disclosed in the description of the item. Neither John Pye & Sons Ltd nor the Seller accepts any liability for contradictions or differing certificates obtained by Buyers on any Lots subsequent to the Sale.
- 3.13 Estimated Weights – If the weight of a piece of jewellery is included in a description, the stone(s) has been assessed by us within its/their settings, and the stated weight is a statement of our opinion only. This information is given as a guide and Bidders should satisfy themselves with regard to this information as to its accuracy.
- 3.14 ARTIST'S RESALE RIGHT REGULATIONS – Where specified, works of art may be subject to the addition of a royalty charge (a percentage of the final hammer price, excluding VAT and Buyers Premium) which will be added to the final invoice in accordance with the Artist's Resale Rights Regulations.

#### 4. RISK AND TITLE

- 4.1 The title in the Lot shall not pass to the Buyer until the Hammer Price and the Buyer Premium have been paid to JOHN PYE & SONS (and have been received in full and cleared funds) and any other instrument tendered in payment has been cleared. Until title passes, and subject to clause 7.1 below, JOHN PYE & SONS reserves the right to dispose of the Lot in

accordance with clause 2.8 above.

- 4.2 From the delivery of a Lot to the Premises until the Hammer Price in respect of a Lot is reached or the Lot is removed by the Seller (including any time during which the Lot is being tested or demonstrated on the auction premises, or elsewhere) the Lot is at the risk of the Seller, and neither JOHN PYE & SONS nor its servants or agents will be responsible for any loss or damage whether caused by negligence or otherwise.
- 4.3 From the time when a Hammer Price is reached in respect of a Lot, a Lot is deemed sold, and notwithstanding clause 4.1 above, it is at the risk of the Buyer from that point onwards.

## 5. CONDUCT OF THE AUCTION

- 5.1 Without prejudice to any other of their rights set out in these Terms, JOHN PYE & SONS has absolute discretion without giving any reason to refuse any bid, to withdraw any Lot before the hammer falls, to divide any Lot, to combine any two or more Lots, or to withdraw any Lot and/or Lots from the auction. JOHN PYE & SONS is not bound to accept any offer.
- 5.2 Potential buyers wishing to participate in an auction must first: -
- 5.2.1 View all Lots
- 5.2.2 complete Registration (including the payment of the Deposit), before they will be admitted to participate in any auction.
- 5.3 The contract of sale between the Seller and a Buyer will be formed once the Hammer Price has been achieved, at which point the Lot shall be deemed sold subject to the provisions of clause 4.1 above.
- 5.4 For the avoidance of doubt, the parties to the contract of sale of the Lot are the Buyer and the Seller. JOHN PYE & SONS is not a party to the contract of sale but acts as the Seller's agent only and is not liable for any breach thereof by either the Buyer or the Seller.
- 5.5 Immediately after the achievement of the Hammer Price the terms of clause 6 below shall apply.
- 5.6 If a potential buyer is unsuccessful in achieving the Hammer Price, they may recover their Deposit from JOHN PYE & SONS or, they may request in writing that JOHN PYE & SONS keep the Deposit against future auctions which the potential buyer may participate in, and make them a registered 'regular customer' of JOHN PYE & SONS provided they adhere to bi-annual requests for identification.
- 5.7 Any disputes in relation to the bidding or following the attainment of the Hammer Price in relation to what bids were made by who shall be referred to JOHN PYE & SONS for decision. For the avoidance of doubt, JOHN PYE & SONS shall have absolute discretion to cancel the contract of sale and to reauction the Lot (which is the subject of any dispute) either during the same or a subsequent auction, and, in all cases, JOHN PYE & SONS' decision in respect of any such dispute (for which no justification or reasons shall be required) will be final.
- 5.8 In the event that JOHN PYE & SONS exercises the discretion to cancel the contract referred to at clause 5.7 above, neither the original Buyer nor the Seller shall be entitled to rely on the original contract of sale for any purpose whatsoever save that the Buyer shall be entitled to the return of any deposit or other money which he may have paid under the original contract.

- 5.9 Every bidder shall be deemed to act as principal unless there is in force a written acknowledgment by JOHN PYE & SONS that he acts as agent on behalf of a named principal.
- 5.10 JOHN PYE & SONS shall not in any circumstances be obliged to announce any reserve price.
- 5.11 JOHN PYE & SONS reserves the right to turn away any potential sellers and/or buyers who do not present appropriate identification upon reasonable request.
- 5.12 Persons attend auctions at their own risk.
- 5.13 Where JOHN PYE & SONS conducts a sale on behalf of a Seller who is either a receiver or liquidator of a limited company or trustee in bankruptcy: -
- 5.13.1 The Seller and JOHN PYE & SONS on their behalf only sell whatsoever right, title or interest the company or bankrupt may have in any Lot;
- 5.13.2 In the event of a third party proving to have a superior title or right to custody or possession of any Lot JOHN PYE & SONS may rescind the contract of sale and upon return of any Deposit and/or Hammer Price to the Buyer, neither the Seller nor JOHN PYE & SONS shall be under any further liability to the Buyer.
- 5.14 JOHN PYE & SONS shall have the right, at its discretion, to refuse admission to the Premises or attendance at the auctions by any person.
- 5.15 The Important Notes and these Terms will be made available to potential buyers on JOHN PYE & SONS website, in the relevant catalogue, on request, and will be on display at the Premises.

## 6. PRICE AND PAYMENT

- 6.1 Immediately following the achievement of the Hammer Price, the Buyer shall attend the relevant clerk and/or follow the appropriate process as notified to the Buyer by JOHN PYE & SONS and pay the Hammer Price plus VAT unless specified otherwise, and the Buyer Premium plus VAT. If the Buyer fails to do so by 5 pm on the next Working Day, or such other time as is specified in the Important Notes, JOHN PYE & SONS shall have an absolute discretion to cancel the contract of sale, to retain the Deposit, and the terms of clause 8.1 below will apply.
- 6.2 All required payments will be settled in full and before removal of the Lot is permitted and will be in sterling (GBP) by way of CHAPS, Bank Transfer, Debit Cards, Cash (up to £5000 per Buyer) or as otherwise specified in the Important Notes or directly by JOHN PYE & SONS. All queries in relation to methods of payment must be made to JOHN PYE & SONS accounts department and unless otherwise agreed by JOHN PYE & SONS, the timing required under these Terms for payment is of the essence, and will under no circumstances be adjusted further to a failure on the part of the Buyer to make the necessary enquiries and preparations in order to pay the Hammer Price.
- 6.3 In respect of telegraphic transfers, the remitting bank must include the bidding number (listed on the Bid Slip), the invoice number, and any other reference as shown in the Important Notes, or as otherwise directed by JOHN PYE & SONS.

- 6.4 All bankers' drafts will be confirmed with the drawn bank prior to acceptance. Buyers must provide full details of the drawn bank including branch, contact name and telephone number.
- 6.5 Bankers Drafts can only be accepted for payment up to 4.00pm, Monday to Thursday – after this time collection will be deferred to the next Working Day
- 6.6 All Lots are sold exclusive of VAT which will be added to the Hammer Price at the prevailing rate (if applicable).
- 6.7 All Lots must be paid for in accordance with clause 6.1 above and must be removed no later than the time specified in the Important Notes.
- 6.8 The Important Notes will set out:
  - 6.8.1 the Health & Safety policies;
  - 6.8.2 viewing times;
  - 6.8.3 payment details;
  - 6.8.4 collection times;
  - 6.8.5 the amount of commission (if any) which will be payable by the Seller as a percentage of the Hammer Price;
  - 6.8.6 the amount of the Buyer Premium (as defined below in clause 6.9);
  - 6.8.7 any service charges;
  - 6.8.8 VAT payable (if any);
  - 6.8.9 Registration details;
  - 6.8.10 location details; and
  - 6.8.11 specific detail relating to the particular auction.
- 6.9 JOHN PYE & SONS will charge a "Buyer Premium" on all Lots on the purchase price of the Lot plus VAT. The Buyer Premium will be set out in the Important Notes and will be a percentage of the Hammer Price which will be charged to the Buyer.
- 6.10 JOHN PYE & SONS is entitled to deduct the relevant fees from the Hammer Price (plus any VAT chargeable thereon) in respect of each Lot (which may, for the avoidance of doubt, include any commission due, the entry fee due (if not already paid) and any other previously notified fees chargeable), before remitting the proceeds to the Seller.
- 6.11 Without prejudice to any other rights of JOHN PYE & SONS under these Terms in respect of the charging of commission, entry fees, Buyer Premium, and any other relevant fees, JOHN PYE & SONS will be entitled to charge the commission and Buyer Premium in all cases including but not limited to:
  - 6.11.1 when the Lot is sold in an auction irrespective of whether the contract of sale is later rescinded (save further to an act or omission of JOHN PYE & SONS);

- 6.11.2 if the Lot is sold (or re-sold) by way of private sale on the Premises;
  - 6.11.3 if the Lot is re-sold further to the default of the Buyer, or the Seller;
  - 6.11.4 if the Seller becomes the Buyer.
- 6.12 Without prejudice to any of JOHN PYE & SONS' rights under these Terms, for the avoidance of doubt:
- 6.12.1 JOHN PYE & SONS will not be under any obligation to pay any monies to the Seller following the auction until such time as the Buyer remits all monies due in accordance with this clause 6; and
  - 6.12.2 JOHN PYE & SONS will be entitled to deduct from any payment due to the Seller, any amounts owed by the Seller to JOHN PYE & SONS which JOHN PYE & SONS has obtained prior consent from the Seller to so deduct

## 7. BUYER'S DUTIES

- 7.1 The Buyer shall at his own expense and risk take away the Lot(s) purchased not later than 5pm the following Working Day after the relevant auction in which the Lot was purchased has concluded, unless otherwise stated in the Important Notes (but in any event not before payment to JOHN PYE & SONS in accordance with clause 6 above). If the Buyer fails to do so, the provisions of clause 8.2 below will apply.
- 7.2 The Buyer shall fully indemnify and keep indemnified JOHN PYE & SONS in the event of any damage or loss caused and/or occasioned to any adjoining or other Lots or to the Premises by their removal of the Lots.
- 7.3 The Buyer shall be responsible for any injury to and/or death of any person resulting from the removal of his Lot(s) and shall fully indemnify and keep indemnified, JOHN PYE & SONS against any such liability whether or not such injury and/or death was caused by the negligence of the Buyer, his employees or agents..
- 7.4 In accordance with clause 4.3 above, the Buyer will be responsible for loss or damage to the Lots purchased from notification of successful bid and neither JOHN PYE & SONS nor its servants or agents shall afterwards be responsible for any loss or damage of any kind, whether caused by negligence or otherwise, while any Lot is in their custody or under their control.
- 7.5 JOHN PYE & SONS will not be liable under Section 6 of the Health and Safety Act 1974, and if required to do so by JOHN PYE & SONS the Buyer will provide a written undertaking (in a form acceptable to JOHN PYE & SONS) to comply with all duties and obligations in respect of the Lot by the Health and Safety at Work Act 1974, any subsequent modification or re-enactment of either Act or by any other legislation affecting the use of the Lot. JOHN PYE & SONS may cancel the contract the contract of sale if the Buyer fails to provide such an undertaking upon request. In this event, JOHN PYE & SONS will be entitled to re-auction the Lot at any time.
- 7.6 The Buyer shall be responsible for any damage occasioned to any adjoining or other Lots or to the Premises by the removal of their Lot(s) and shall repair the same either before removal of the Lots from the Premises or after such removal as JOHN PYE & SONS may desire or shall pay the estimated cost of doing so to be fixed by JOHN PYE & SONS whose decision shall be binding on the Buyer.

7.7 Neither the Seller nor JOHN PYE & SONS shall be under any liability pursuant to section 6 of the Health and Safety Act 1974 and the Buyer's attention is drawn to the undertaking given on each Bid Slip at the sale by which the Buyer undertakes to take such reasonable and practical steps as are sufficient to ensure that his purchase will be safe and without risk to health and safety when properly used.

## 8. BUYER'S DEFAULT

8.1 If the Buyer does not honour their obligations for payment under clause 6 above in any way, JOHN PYE & SONS as agents of the Seller shall at its absolute discretion and without prejudice to any other rights it may have, be entitled to exercise one or more of the following rights or remedies:

8.1.1 to rescind the contract for sale of the Lot (or any other Lot) sold to the defaulting Buyer at the auction; and

8.1.2 to retain the Deposit and to pursue the Buyer directly for all monies owed including damages for breach of contract; or

8.1.3 to enter the Lot in question to be resold at public auction or private sale, the defaulting Buyer will then pay to JOHN PYE & SONS any resulting deficiency in the purchase price at the first auction after deduction of any part payment and addition of resale costs;

8.1.4 to remove, store (either at the Premises or elsewhere) and insure the Lot at the expense of the defaulting Buyer;

8.1.5 to charge interest at a rate not exceeding 2% per month on the Hammer Price to the extent that it remains unpaid for more than 2 Working Days after the day of the relevant auction;

8.1.6 to retain that or any other Lot sold to the same Buyer at the same or any other auction and release it only after payment of the Hammer Price;

8.1.7 to reject or ignore any bids made by or on behalf of the defaulting Buyer at any future auction;

8.1.8 to apply any proceeds of sale then due or at any time afterwards becoming due to the defaulting Buyer towards settlement of the Hammer Price and to exercise a lien on any property of the defaulting Buyer which is in JOHN PYE & SONS possession for any purpose.

8.2 If the Buyer fails to remove the Lot from the Premises as required under clause 7.1 above (and such failure to remove the Lot is not due to a fault of JOHN PYE & SONS) JOHN PYE & SONS will have the right to:

8.2.1 re-enter the Lot into auction and charge the Defaulter's Entry Fee to the Buyer;

8.2.2 charge a one-off administration fee of £50 (plus VAT if applicable);

8.2.3 move the Lot (at the risk of the Buyer provided that JOHN PYE & SONS will use reasonable care and skill in such a move) to another Premises from that where the Buyer purchased the Lot; and

- 8.2.4 for every calendar day following the day on which the Lot(s) should have been collected from the Premises by the Buyer, the Buyer will incur a daily storage charge of £5 plus VAT per Lot stored without exception, and such charge will continue to accrue notwithstanding the transfer of any Lot to an alternative premises by JOHN PYE & SONS (and for the avoidance of doubt, JOHN PYE & SONS will deduct such charge from the Deposit).
- 8.3 When a Lot is re-auctioned pursuant to clause 8.1 or 8.2 or otherwise in accordance with these Terms as deemed appropriate by JOHN PYE & SONS, the proceeds of such re-sale will be applied in the following manner (for the avoidance of doubt, JOHN PYE & SONS will only be able to apply the Deposit as against the costs listed below if the re-sale is occurring further to clause 8.1, and in the case of a resale occurring further to clause 8.2, the Deposit will first be applied as against the costs listed below, followed by the proceeds of the re-sale):
- 8.3.1 the Defaulters Entry Fee on the re-sale which will be charged to the Buyer;
- 8.3.2 any outstanding storage fees, removal fees, and insurance expenses due;
- 8.3.3 any sums due under the original contract following the first auctions (together with any VAT chargeable).
- 8.4 The balance of the re-sale price, if any, shall be paid to the original Buyer if title in the Lot has passed to him but shall otherwise be paid to the original Seller or, where the Seller's rights have been transferred to JOHN PYE & SONS, shall be retained by JOHN PYE & SONS. The original Buyer will remain liable to JOHN PYE & SONS and/or the Seller subsequent to the re-sale, save where the proceeds of the re-sale have discharged such liability.
- 8.5 For the avoidance of doubt, nothing in these Terms limits JOHN PYE & SONS' liability, nor, where applicable, the liability of the Buyer or Seller for:
- (a) death or personal injury caused by negligence; or
  - (b) fraud or fraudulent misrepresentation; or
  - (c) any breach of the obligations implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982; or
  - (d) losses for which it is prohibited by section 7 of the Consumer Protection Act 1987 to limit liability; or
  - (e) any other matter for which it would be illegal or unlawful to exclude or attempt to exclude liability

## 9. DATA PROTECTION

- 9.1 JOHN PYE & SONS will only use the personal information provided to them to provide the auction services, or to inform Buyers and Seller about similar services which they provide, unless told by such parties that they do not want to receive this information by ticking the 'opt out' box on the Bid Slip, or by ticking the relevant box on the relevant web page.
- 9.2 The Buyers and Sellers acknowledge and agree that JOHN PYE & SONS may pass their details to credit reference agencies.
- 9.3 Within this clause, "Data Protection Act" means the Data Protection Act 1998 and "Data Controller", "Data Processor" and "Personal Data" have the same meanings as in that Act.

- 9.4 With respect to the parties' rights and obligations under these Terms, such party shall be the Data Controller for information obtained in the course of the auction as permitted under these Terms. To the extent that the Buyer needs access to Personal Data relating to its receipt of the Lot, or a Seller needs access to Personal Data relating to its sale of the Lot, then JOHN PYE & SONS shall be the Data Controller and the Buyer (and/or Seller) shall be the Data Processor in respect of such Personal Data.
- 9.5 JOHN PYE & SONS shall:
- 9.6 only process Personal Data relating to its management (or otherwise) of the auction in accordance with the regulations of the Data Protection Act;
- 9.7 only process Personal Data to the extent, and in such manner, as is necessary for the provision of the auction services and/or its obligations under these Terms or as is required by law or any regulatory body;
- 9.8 implement appropriate technical and organisational measures to protect Personal Data against unauthorised or unlawful processing and against accidental loss, destruction, damage, alteration or disclosure. These measures shall be appropriate to the harm which might result from unauthorised or unlawful processing or accidental loss, destruction or damage to Personal Data and to the nature of the Personal Data which is to be protected; and
- 9.9 not perform its obligations hereunder or as otherwise set out in these conditions in such a way as to breach any of its applicable obligations under the Data Protection Act.

## 10. GENERAL

- 10.1 If any court or competent authority decides that any of the provisions of these Terms are invalid, unlawful or unenforceable to any extent, the term will, to that extent only, be severed from the remaining terms, which will continue to be valid to the fullest extent permitted by law.
- 10.2 If or to the extent that any of these Terms (as amended from time to time in writing by JOHN PYE & SONS) are Terms to which any of the provisions of the Unfair Contract Terms Act 1977 or the Supply of Goods and Services Act 1982 or any subsequent modification or re-enactment thereof apply then such Terms shall be enforceable only to the extent permitted by those Acts or their subsequent modification or re-enactment and these Terms shall be construed accordingly.
- 10.3 If JOHN PYE & SONS fails, at any time while these Terms are in force, to insist that the Seller and/or Buyer perform their obligations under these Terms, or if JOHN PYE & SONS does not exercise any of its rights or remedies under these Terms, that will not mean that JOHN PYE & SONS has waived such rights or remedies and will not mean that the Seller and/or Buyer does not have to comply with those obligations. If JOHN PYE & SONS do waive a default by the Seller and/or Buyer that will not mean that JOHN PYE & SONS will automatically waive any subsequent default by the Seller and/or Buyer. No waiver by JOHN PYE & SONS of any of these Terms shall be effective unless JOHN PYE & SONS expressly says that it is a waiver and JOHN PYE & SONS tell the Buyer and Seller so in writing.
- 10.4 A person who is not party to these Terms shall not have any rights under or in connection with them under the Contracts (Rights of Third Parties) Act 1999.
- 10.5 Lots in our auctions that have been physically de-branded/de-badged are to remain de-branded. No original trademarks, web images, vendor/clients' logos or other intellectual property may be copied or used by the winning bidder without prior written consent.

Any customers in breach risk permanent exclusion from auctions and salerooms.

10.6 These Terms shall be governed by English law and JOHN PYE & SONS, the Seller and the Buyer all agree to the exclusive jurisdiction of the English courts.

## 11. ONLINE TERMS OF PARTICIPATION AND SALE

11.1 Subject to the following clauses which have precedence over the Terms above, the provisions of all Terms above apply to the sale of Lots made through [www.johnpye.co.uk](http://www.johnpye.co.uk) (the "Website"), and to the extent that such adjustments in practical application of the Terms are warranted by virtue of the electronic medium of participation in any given auction, so such adjustments shall be deemed made so to give full application to all relevant and applicable Terms.

11.2 All participants in the Website auctions warrant that they are legally capable of entering into binding contracts and are of the legal age required to purchase any relevant Good(s).

11.3 Any reference in the above Terms to the Buyer Premium will also, for the purposes of sale/purchases over the Website, include any online Buyer's fees of which the Buyer will be so notified at the time of Registration.

11.4 The Website operates a '3 minute rule' which means that any person who bids on-line within the last 3 minutes of a specific Lot closing time will instigate the automatic extension of the Lot closing time by an additional 3 minutes and so on for any such subsequent bids.

11.5 In addition, use of the JOHN PYE & SONS online bidding platform is at all times subject to the JOHN PYE & SONS conditions of website use.

11.6 During an auction, potential Buyers can bid for a Lot by clicking the "Bid" button. Each bid shall be final and binding as soon as the Bid button is clicked.

11.7 In the event of a tie between a bid placed by a potential Buyer online and any other identical bid(s) it will be at the auctioneer's discretion as to which bid shall be accepted.

11.8 Buyers acknowledge that the online auction is a live auction and agree that each bid submitted as provided in these Terms is irrevocable and cannot be amended or corrected, even if submitted in error and notified to JOHN PYE & SONS.

11.9 Buyers are fully liable for all bids submitted via their online bidding account (including the liability to pay in full and on time in accordance with these Terms for any Lot that is the subject of a successful bid submitted from the Buyer's account).

11.10 JOHN PYE & SONS provide the online bidding service "as is" and without any warranty or condition, express, implied or statutory. Without limiting the foregoing, we accept no liability for any failures, delays or errors caused by interruptions in the availability of the online bidding service or our website or any errors or defects in their content or functionality, any software and/or hardware defects (whether the potential Buyers or JOHN PYE & SONS') and or any internet connection problems (whether the potential Buyers or JOHN PYE & SONS') and JOHN PYE & SONS do not represent or warrant that the JOHN PYE & SONS website or online bidding platform will be error free, virus free, or that any defects will be corrected.