

JOHN PYE AUCTIONS – GENERAL TERMS & CONDITIONS FOR TRADE AUCTIONS

1. INTERPRETATION

1.1 The defined terms used within these Terms have the following meanings:

"Bid"	has the meaning given in clause 4.3.
"Bidder"	a person who places a Bid for the Lot.
"Buyer Premium"	the percentage of the Hammer Price, as specified in the Important Notes, usually being 25% of the price of the Lot.
"Buyer"	means the Bidder who places the Hammer Price at completion of the auction and who purchases the Lot pursuant to clause 4.6, and the End Buyer.
"Consumer"	an individual who is acting for purposes which are wholly or mainly outside of the individual's trade, business, craft or profession.
"Contract"	has the meaning given in clause 4.6.
"Defaulter's Entry Fee"	means the fee of £130 plus VAT per Lot charged to the Buyer in the case of a Lot having to be resold due to a default of the Buyer as stated in clause 14.
"Delivery Carrier"	means delivery of a Lot by a third-party delivery carrier nominated by JOHN PYE AUCTIONS in its absolute discretion which term includes both delivery by a Two-person Lift and by Parcel Delivery.
"Deposit"	a monetary deposit, in the amounts set out in the Important Notes.
"End Buyer"	has the meaning given in clause 6.1.
"Good(s)"	means the plant, machinery, equipment or other goods that JOHN PYE AUCTIONS, as agent for the Seller, sells by public auction under these Terms.
"Hammer Price"	the highest Bid placed in respect of a Lot and which is accepted by JOHN PYE AUCTIONS. For the avoidance of doubt, the Hammer Price is exclusive of VAT.

"Important Notes"	means the notes issued by JOHN PYE AUCTIONS that relate to the Lot which may set out information including: a general description of the Lot, the date the auction ends, payment method available, the fees payable (including the commission (if any), the Buyer Premium, delivery charges, entry fees, and other costs and charges), details relating to collection of the Lot using click & collect (where available), Delivery Carrier and other specific information relating to the sale of the Lot.
"Intellectual Property Rights"	means all patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.
"Invoice"	means the invoice sent to the Buyer by a particular site of JOHN PYE AUCTIONS for a particular auction. The invoice will list the Lot, or the Lots purchased by the Buyer at that auction and the total sum due under that invoice. If Lots are listed, the Buyer acknowledges and agrees that each Lot may have been sold to the Buyer by a different Seller and that the sale of each particular Lot is under a separate contract between the Buyer and the Seller.
"JOHN PYE AUCTIONS"	means John Pye & Sons Limited (company number: 02564753) with registered office at James Shipstone House, Radford Road, Nottingham, NG7 7EA. VAT number: 117777249.
"Lot"	means any single Good or set of Goods allocated with a specific lot number in a particular auction. The defined term Lot in these Terms is a reference to a single lot. For the avoidance of any doubt "Lot" is not interchangeable with "Invoice" and therefore all and any fees and charges defined as payable per Lot in these Terms are calculated per Lot and not per Invoice.

"Lots"	means more than one Lot.
"Main Characteristics"	means the description of the core characteristic of the Goods in the Lot (for example whether the Goods are a chair, television or necklace) as set out in the Important Notes. This does not include any specific details about the Goods (such as the memory capacity of a laptop, the state of functionality of the Goods or the condition of the Goods).
"Parcel Delivery"	means delivery of a Lot to a Buyer by parcel delivery as specified by JOHN PYE AUCTIONS in the Important Notes and not by a Two-person Lift team. The Delivery Carrier to be nominated by JOHN PYE AUCTIONS in its absolute discretion.
"Premises"	the premises where the Lot is displayed for inspection (which may be at JOHN PYE AUCTIONS' premises or at the Seller's premises or somewhere else entirely).
"Seller"	means the seller of the Lot.
"Terms"	means these terms and conditions for general auctions.
"Three Minute Rule"	has the meaning given in clause 3.10.
"Two-person Lift"	means delivery to a Buyer of a Lot which requires delivery by a two-person team as specified by JOHN PYE AUCTIONS in the Important Notes (for example using the term 'home delivery'). The Delivery Carrier to be nominated by JOHN PYE AUCTIONS in its absolute discretion.
"Website"	www.johnpye.co.uk and/or www.johnpyeauctions.co.uk
"Working Days"	a day, other than a Saturday or Sunday or public holiday in England, when JOHN PYE AUCTIONS is open for business.

- 1.2 Clause headings shall not affect the interpretation of these Terms.
- 1.3 References to writing in these Terms includes email but not faxes.
- 1.4 References to a person includes an individual, corporate or unincorporated body (whether or not having separate legal personality).
- 1.5 Where there is a conflict between these Terms and the Important Notes, the Important Notes shall prevail.
- 1.6 Except where the context otherwise requires, words in the singular shall include the plural and vice versa. Words denoting one gender shall include all genders.
- 1.7 References to a statute or statutory provision is a reference to it as in force for the time being, taking account of any amendment, extension or re-enactment and includes subordinate legislation made under it.

- 1.8 Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 1.9 All sales and purchases of any Lot or Lots by public auction, where JOHN PYE AUCTIONS acts as agent for the Seller, shall be subject to these Terms.
- 1.10 The Buyer's attention is drawn in particular to the provisions of clause 16 (if the Buyer is a Consumer) or clause 17 (if the Buyer is not a Consumer).

2. ROLE OF JOHN PYE AUCTIONS

- 2.1 JOHN PYE AUCTIONS acts as agent for the Seller. Any contract for sale of the Lot is made directly between the Seller and the Buyer, JOHN PYE AUCTIONS shall have no responsibility for the actions or the omissions of the Seller, the Buyer or any other party.

3. ENTERING AN AUCTION AND AUCTION CONDUCT

- 3.1 Before a Bidder can participate in a JOHN PYE AUCTIONS auction, the Bidder must complete registration with JOHN PYE AUCTIONS on the Website and view the Lot in person. The Bidder may also be required to pay a Deposit before it is able to participate.
- 3.2 These Terms are binding on the Bidder from the date the Bidder completes registration on the Website.
- 3.3 The Bidder may be required to provide valid photo identification (being a current valid passport or driving licence) at the Premises. JOHN PYE AUCTIONS and/or the Seller may remove the Bidder from the Premises, and/or may refuse to accept a Bid, if the Bidder fails to show a valid form of photo identification when requested.
- 3.4 JOHN PYE AUCTIONS shall be entitled to conduct the sale of the Lot by any method it considers appropriate and to impose such special conditions as it sees fit in the circumstances.
- 3.5 JOHN PYE AUCTIONS may in its absolute discretion and without providing any reason:
- 3.5.1 limit or restrict who can participate in an auction for the Lot;
 - 3.5.2 refuse to admit any person to the Premises;
 - 3.5.3 update or amend the Important Notes for any reason at any time prior to formation of the Contract;
 - 3.5.4 remove a Lot from sale prior to formation of the Contract (and may then re-auction the Lot, or sell the Lot by private treaty);
 - 3.5.5 refuse to accept and/or may reject a Bid at any time prior to formation of the Contract;
 - 3.5.6 set a reserve price in respect of the Lot.
- 3.6 JOHN PYE AUCTIONS shall not be obliged to announce any reserve price for the Lot.

- 3.7 Any dispute between a Bidder and the Seller or JOHN PYE AUCTIONS, or the Buyer and the Seller or JOHN PYE AUCTIONS, shall be referred to JOHN PYE AUCTIONS for resolution who may make its decision without justification or explanation. JOHN PYE AUCTIONS' decision shall be final except in the case of manifest error or negligence.
- 3.8 The Website is provided "as is" and the availability of the Website may not be uninterrupted or error free. JOHN PYE AUCTIONS gives no warranty as to the availability of the Website or any content on the Website.
- 3.9 The Bidder, the Buyer and the Seller shall comply with all JOHN PYE AUCTIONS' policies as issued or made available via the Website from time to time including without limitation the conditions of website use.
- 3.10 JOHN PYE AUCTIONS operates its auctions using the "Three Minute Rule". This means that if a Bidder places a Bid in the final three minutes before the auction for the Lot closes, the auction for the Lot will automatically continue for an additional three minutes beyond the expected closing time (and so on until there are no subsequent Bids placed).

4. BASIS OF SALE & CONTRACT FORMATION

- 4.1 The Buyer acknowledges and accepts that, save as set out in section 2(6) of the Consumer Rights Act 2015, the Contract is for the sale of the Lot by public auction, which is not a consumer contract for the purposes of the Consumer Rights Act 2015. To the fullest extent permitted by law all express and implied warranties and conditions are excluded from the Contract.
- 4.2 If JOHN PYE AUCTIONS indicates that it is prepared to sell the Lot by auction, such an indication shall constitute an invitation to treat and not an offer to sell.
- 4.3 The Bidder may place a bid on the Website by clicking the "Bid" button for the Lot and submitting the requested information. By submitting a bid for the Lot ("Bid"), the Bidder makes an offer to JOHN PYE AUCTIONS to purchase the Lot on these Terms and subject to any special conditions contained in the Important Notes ("Special Conditions").
- 4.4 The Bidder may retract its Bid at any time before the auction is concluded (see clause 4.6) by notifying JOHN PYE AUCTIONS. If a Bid is withdrawn, JOHN PYE AUCTIONS may accept a lower Bid received for the Lot.
- 4.5 Neither JOHN PYE AUCTIONS nor the Seller shall be bound to accept any offer for the Lot.
- 4.6 The Buyer shall be the highest Bidder at or above any reserve price at the conclusion of the auction (which shall be the time stated in the Important Notes, subject to the Three Minute Rule) at which point a contract for the sale and purchase of the Lot on these Terms and subject to the Special Conditions shall come into existence between the Seller and the relevant Bidder who is then the Buyer ("Contract"), subject to JOHN PYE AUCTIONS' right to reject Bids and to alter or withdraw a Lot from auction under clause 3.5.4 and clause 3.5.5 and subject to the Seller and JOHN PYE AUCTIONS' rights to terminate the Contract under clause 14.
- 4.7 If any reserve price is not met, JOHN PYE AUCTIONS shall be entitled in its absolute discretion to accept any Bid received which is below the reserve price, in which case the Buyer shall be the person who submitted that Bid.

4.8 If a Bidder is unsuccessful in achieving the Hammer Price, or if the Bidder does not have its offer accepted by JOHN PYE AUCTIONS or the Seller, the Bidder may recover its Deposit from JOHN PYE AUCTIONS. Alternatively, the Bidder may request in writing that JOHN PYE AUCTIONS retains the Deposit to be paid against future auctions or sales in which the Bidder may participate. If JOHN PYE AUCTIONS retains the Deposit, the Bidder may be required to comply with JOHN PYE AUCTIONS' re-identification procedures on a bi-annual basis.

4.9 The Buyer acknowledges and accepts that it has no right to cancel the Contract or return the Lot.

5. WARRANTIES

5.1 The Bidder represents and warrants that:

5.1.1 it is the registered user of the online bidding account set up via the Website and used to place the Bid;

5.1.2 it is authorised to enter into the Contract (if its Bid is accepted by JOHN PYE AUCTIONS and the Seller as the Hammer Price and the Contract is formed in accordance with clause 4.6) and to be legally bound by the terms hereunder;

5.1.3 where the Bidder is an individual, he/she is at least 18 years old;

5.1.4 where the Bidder is an individual (not a limited company or other corporate body) the online bidding account will be held in their sole name, and they will be the only person to use and able to access the online bidding account; and

5.1.5 it has read and accepts these Terms and commits to buying the Lot if its Bid is accepted by JOHN PYE AUCTIONS.

6. RESPONSIBILITY FOR THE CONTRACT

6.1 If the Bidder is acting as agent on behalf of a third party, or as principal for the ultimate benefit of a third party (the "**End Buyer**"), the Bidder must disclose to JOHN PYE AUCTIONS the full name of the End Buyer and any other information that JOHN PYE AUCTIONS may require. Such information must be provided to JOHN PYE AUCTIONS on the earlier of (a) the date the Bidder completes registration and (b) the date the Bidder first places a Bid.

6.2 The Bidder represents, warrants, and undertakes, that it has the necessary right, power and authority to enter into the Contract (if its offer is accepted by JOHN PYE AUCTIONS and the Seller) and to bind the End Buyer in full.

6.3 The Bidder hereby guarantees the performance of the Contract by the End Buyer and will be jointly and severally liable with the End Buyer for the performance of the Contract in full.

6.4 For the avoidance of doubt, neither JOHN PYE AUCTIONS nor the Seller shall have any liability to the End Buyer under or in connection with the Contract or in relation to the Lot.

7. CONDITION OF THE LOT

- 7.1 The Buyer acknowledges that before the date the Contract is formed, JOHN PYE AUCTIONS and the Seller have each given the Buyer the opportunity to inspect and (where possible) test the Lot and to also attend the sale of the Lot, in each case in person. The Buyer has satisfied itself as to all matters relating to the Lot including the quality, age, value, correctness, condition, fitness for purpose, satisfactory quality and suitability of the Lot. However, JOHN PYE AUCTIONS remains responsible to the Buyer, if the Buyer is a Consumer, for the Main Characteristics of the Lot.
- 7.2 Any images of the Lot (whether on the Website, in the Important Notes, in brochures, in catalogues or otherwise) are for illustrative purposes only and the Lot may vary from those images. The Lot may comprise of second-hand items, raw returns, repossessed goods and seized goods. The Lot is sold as seen with no grading or guarantee given, and is sold subject to any faults, defects and imperfections which may subsist at the time of the sale.
- 7.3 Any descriptions of the Lot are for identification purposes only, except where the Buyer is a Consumer and the description relates to the Main Characteristics of the Lot. Where errors or defects are not identified in the Important Notes or on the Website, there is no implied warranty as to the condition of the Lot or that it is free from any faults, imperfections, defects or restorations. JOHN PYE AUCTIONS and the Seller shall not be held responsible for any damage or defect to the Lot that has not been expressly notified to the Buyer.
- 7.4 Unless otherwise stated expressly in the Important Notes, no warranty, condition or guarantee is given (whether express or implied) by JOHN PYE AUCTIONS as to the quality, age, correctness, condition, suitability, fitness for purpose or satisfactory quality of the Lot, and any and all express or implied conditions and warranties are excluded to the fullest extent permitted by law. If the Buyer is a Consumer, nothing in this clause shall exclude any express or implied conditions or warranties relating to the Main Characteristics provided by JOHN PYE AUCTIONS.
- 7.5 Where JOHN PYE AUCTIONS or its representatives provide an estimated Hammer Price for the Lot it is an opinion given on behalf of the Seller; such estimates should not be relied upon as the true value or the likely Hammer Price for the Lot. The Lot can be sold for much more and much less than the estimated Hammer Price. Any estimate given by JOHN PYE AUCTIONS is given exclusive of the Buyer Premium, VAT, delivery charges and other costs related to the sale and the purchase of the Lot.
- 7.6 Where JOHN PYE AUCTIONS or its representative provides any guidance as to the authorship, genuineness, origin, date, age, provenance or condition, this is an opinion given on behalf of the Seller and should not be relied upon by the Buyer. The Buyer must satisfy itself as to the value, authorship, genuineness, origin, date, age, provenance or condition of the Lot except that, where the Buyer is a Consumer, JOHN PYE AUCTIONS is responsible for the Main Characteristics of the Lot.
- 7.7 No Lot is sold as new for the purpose of the Consumer Protection Act 1987 or any product liability legislation. The Lot is not sold as a sample.
- 7.8 JOHN PYE AUCTIONS and the Seller shall not be liable for any loss or damage suffered or incurred by the Buyer arising out of or in connection with any deficiency in the Lot, error in the Lot description, mis-statement or the failure of Lot to function, except where arising from JOHN PYE AUCTIONS' or the Seller's negligence. This clause does not apply to a Buyer who is a Consumer.

7.9 Where the Buyer is a Consumer, nothing in this clause limits or excludes any express or implied conditions or warranties relating to the Main Characteristics.

8. TERMS SPECIFIC TO THE LOT

Clocks and watches

8.1 The absence in the description of a Lot 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. Many clocks and watches may have been repaired or restored during the course of their normal lifetime and may now incorporate parts that are not original to them. JOHN PYE AUCTIONS makes no representation or warranty that any clock or watch is in working order. As clocks and watches often contain fine and complex mechanisms, Bidders acknowledge and accept that the watch or clock may require ongoing service, battery replacement or further repair work. The Buyer is solely responsible for this work and the resulting costs.

Gemstones and jewellery

8.2 Historically, gemstones may have been subjected to a variety of treatments to enhance their appearance. Where the Lot comprises of gemstones, the Bidder acknowledges and accepts that the gemstones may have been exposed to some sort of treatment (including, without limitation, that diamonds may have been clarity enhanced). In the event that JOHN PYE AUCTIONS has been provided with certificates relating to the gemstones JOHN PYE AUCTIONS shall make the same available to the Buyer. Neither JOHN PYE AUCTIONS nor the Seller accepts any liability for claims based upon certificates obtained by the Buyer which differ from the certificates provided by JOHN PYE AUCTIONS.

8.3 Where the weight of the gemstones or jewellery is provided by JOHN PYE AUCTIONS, this is the weight assessed by JOHN PYE AUCTIONS within its (or their) settings and the stated weight is JOHN PYE AUCTIONS' opinion only. The Bidder must satisfy itself with its own investigations as to the weight of the gemstones or jewellery (as applicable).

9. RISK & TITLE

9.1 JOHN PYE AUCTIONS is acting as agent of the Seller only and gives no warranty as to the Seller's title to the Lot.

9.2 Title to the Lot shall pass to the Buyer only once JOHN PYE AUCTIONS has received payment in full from the Buyer for all sums due to JOHN PYE AUCTIONS and the Seller. Unless expressly stated otherwise in the Important Notes, title to any Intellectual Property Rights which may subsist in the Lot shall not transfer to the Buyer.

9.3 The Buyer acknowledges and accepts that the Seller may be a receiver, administrator, liquidator, or a trustee in bankruptcy. In such circumstances, the Seller (and JOHN PYE AUCTIONS as agent on behalf of the Seller) will sell whatever right, title or interest the Seller may have (if any) to the Lot. Neither the Seller nor JOHN PYE AUCTIONS warrant that the Lot is free from encumbrances.

9.4 Where the Buyer is not a Consumer, risk in the Lot shall pass to the Buyer from and including the date the Contract is formed under clause 4.6.

9.5 Where the Buyer is a Consumer risk in the Lot shall pass to the Buyer on the earlier of:

9.5.1 collection of the Lot by the Buyer under clause 12;

- 9.5.2 physical delivery of the Lot to the Buyer under clause 11;
- 9.5.3 deemed delivery of the Lot to the Buyer, which shall include delivery to a place nominated by the Buyer, to a neighbour, a safe place, pick-up point or otherwise under clause 11.
- 9.6 Until risk passes to the Buyer, the risk in the Lot remains with the Seller. JOHN PYE AUCTIONS shall not be liable for any loss or damage caused to the Lot.
- 9.7 It is the Buyer's sole responsibility to obtain adequate insurance for the Lot from the time that risk passes to the Buyer. JOHN PYE AUCTIONS and the Seller shall have no liability for the loss or theft of, or damage to, the Lot after this time.
- 9.8 No Lot shall be released to the Buyer until payment has been received by JOHN PYE AUCTIONS for all sums due to JOHN PYE AUCTIONS (including any sums due to JOHN PYE AUCTIONS in respect of any other Goods sold to the Buyer) in full.
- 10. PRICE & PAYMENT**
- 10.1 The price payable by the Buyer for the Lot shall be:
- 10.1.1 the Hammer Price;
 - 10.1.2 the Buyer Premium (if applicable);
 - 10.1.3 the artist's resale royalty (if applicable) and any other fees or charges (including, without limitation, delivery charges) specified in the Important Notes; and
 - 10.1.4 VAT at the prevailing rate.
- 10.2 The Lot is sold exclusive of VAT which (if applicable) shall be payable by the Buyer at the prevailing rate in addition.
- 10.3 The Buyer shall pay for the Lot in full and in cleared funds immediately on creation of the Contract (see clause 4.6) and in any event by no later than by 5pm on the Working Day that immediately follows the date that the sale is concluded pursuant to clause 4.6 or such other time as is specified in the Important Notes. Time for payment is of the essence.
- 10.4 Payment must be made in British Pound Sterling (GBP) and can be made by CHAPS, bank transfer or online payment (using the Website) or as otherwise specified by JOHN PYE AUCTIONS in the Important Notes. The Buyer must specify the Invoice number along with the reference code specified in the Important Notes (if any) when making payment. For queries about payment, please contact the JOHN PYE AUCTIONS' accounts department.
- 10.5 All amounts due under these Terms from the Buyer shall be paid in full without set-off, withholding or deduction.
- 10.6 The Buyer acknowledges and agrees that payment for the amounts due to JOHN PYE AUCTIONS must be received by JOHN PYE AUCTIONS in full before the Lot will be released to the Buyer.

10.7 If the Buyer fails to pay the amounts due to JOHN PYE AUCTIONS by the due date for payment then, without prejudice to any other right or remedy that JOHN PYE AUCTIONS may have, JOHN PYE AUCTIONS shall be entitled to charge the Buyer interest on any overdue sums from the due date for payment (i) at a rate of 3% above the base rate of Barclays Bank Plc from time to time if the Buyer is a Consumer; or (ii) at the rate specified in the Late Payment of Commercial Debts (Interest) Act 1998 if the Buyer is not a Consumer. This interest shall accrue on a daily basis from the due date until the date of actual payment of the overdue sum, whether before or after judgment. The Buyer must pay the interest together with any overdue amount on demand.

11. DELIVERY

11.1 The Buyer shall only be permitted to collect, or arrange for collection of, the Lot where it has first obtained JOHN PYE AUCTIONS' prior written consent. In all other circumstances, the Lot shall be delivered to the Buyer by a Delivery Carrier in accordance with this clause 11.

11.2 Once payment for all sums due from the Buyer has been received in full by JOHN PYE AUCTIONS (including where applicable all delivery charges), JOHN PYE AUCTIONS shall arrange for the Delivery Carrier to collect the Lot for delivery to the Buyer. The Delivery Carrier shall inform the Buyer of the anticipated date for delivery which is usually no later than 30 days after the date JOHN PYE AUCTIONS receives payment in full from the Buyer for all sums due. Notwithstanding the foregoing, times for collection and delivery of the Lot are approximate only and the time of delivery is not of the essence.

11.3 It is the Buyer's responsibility to notify JOHN PYE AUCTIONS of any special handling requests. JOHN PYE AUCTIONS may pass such requests to the Delivery Carrier but neither JOHN PYE AUCTIONS nor the Delivery Carrier shall be obliged to comply with any such requests for any reason including if they deem it impractical or unsafe to do so.

11.4 Delivery of the Lot shall be made to the address supplied by the Buyer to JOHN PYE AUCTIONS at the time that the Buyer makes payment for the Lot. The Buyer acknowledges and agrees that the delivery address cannot be changed after this time. If the Lot cannot be delivered through a standard domestic letterbox because it is evident from the description of the Lot that it is too big to fit, if its packaging would result in the Lot being unable to fit, or if multiple Lots or items are to be delivered, the Buyer must at the time of payment provide an attended delivery address where the Lot or Lots can be safely delivered. Notwithstanding the foregoing, JOHN PYE AUCTIONS may for any reason require that the Lot or Lots are delivered to an attended delivery address. If the delivery address is difficult to locate or to access then the Buyer must provide adequate instructions to JOHN PYE AUCTIONS at the time that payment for the Lot or Lots is made to enable the Delivery Carrier to locate or access the delivery address. Please be aware that JOHN PYE AUCTIONS does not deliver to any addresses outside of the UK.

11.5 The Buyer will be provided with a date and estimated timeslot for delivery which the Buyer may for convenience change to an alternative date (subject to availability). It is the Buyer's responsibility to accept delivery of the Lot on the earlier of the:

11.5.1 first delivery attempt (delivery attempt being as set out in clause 11.6); or

11.5.2 within 14 days of the date on which the Buyer is first notified of a proposed delivery date.

The Buyer's failure to accept delivery in accordance with this clause 11.5 shall be deemed to be a default under clause 14.

11.6 For the purposes of clause 11.5, a delivery attempt shall be deemed to have taken place where the Delivery Carrier provides an estimated timeslot for delivery to the Buyer and attempts to deliver the Lot:

11.6.1 during the estimated timeslot but the Buyer is unable or unwilling to take delivery of the Lot for any reason (including where delivery is by Two-person Lift and the Two-person Lift carrier is unable to deliver the Lot to the Buyer's room of choice);

11.6.2 within 30 minutes of the start or the end of the estimated timeslot; or

11.6.3 in accordance with clause 11.6.1 or 11.6.2 or during the estimated timeslot and the Lot is damaged. Damaged includes damage that has occurred both before delivery and/or at the point of delivery.

Delivery by Parcel Delivery does not include the option to select delivery to the Buyer's room of choice.

11.7 Without prejudice to its right to terminate the Contract under clause 14, if delivery is not accepted by the Buyer within the period set out in clause 11.5, JOHN PYE AUCTIONS may, but shall not be obliged to:

11.7.1 In the case of delivery by Two-person Lift:

11.7.1.1 Arrange for the Delivery Carrier to store the Lot for a further storage period of up to 14 days, and to arrange for further delivery attempts; and

11.7.1.2 Charge the Buyer storage charges and additional delivery fees as set out in clause 14.3 in addition to the charges under clause 11.2.

11.7.2 In the case of delivery by Parcel Delivery arrange a further delivery subject to payment by the Buyer of additional delivery fees as set out in clause 14.3 in addition to the charges under clause 11.2.

11.7.3 Clause 11.5 shall apply to any delivery arranged under this clause 11.7. The Buyer's failure to accept any delivery arranged under this clause 11.7 in accordance with clause 11.5 shall be deemed to be a default under clause 14.

11.8 This clause 11.8 applies to delivery by Two-person Lift only. Where the Two-person Lift delivery carrier agrees to deliver the Lot to a room of the Buyer's choice:

11.8.1 Subject to clause 11.8.2 the Two-person Lift team will endeavour to deliver to the Buyer's preferred room.

11.8.2 If the weight of the Lot (including any packaging) or, where items or Lots are packaged together, the items or Lots packaged together exceed 85kg then the Two-person Lift team will deliver to the ground floor of the Buyer's premises only.

- 11.8.3 The Buyer is responsible for ensuring that there is sufficient space and that it is safe for the Lot to be delivered to the Buyer's preferred room. Any fragile objects must be moved by the Buyer prior to delivery.
- 11.8.4 If the Two-person Lift team considers that it is impractical or unsafe to deliver to the Buyer's preferred room or if there is a risk of damage to property, the Lot, or to any other items then the Two-person Lift team may (but is not obliged to) suggest an alternative room.
- 11.8.5 Provided that there is no risk to safety, the Buyer may still accept delivery to the Buyer's preferred room if the Two-person Lift team is prepared (in their sole discretion) to attempt delivery to that room, but the Buyer will be responsible for any damage to property, the Lot, or any other items (without prejudice to any claim in negligence that a Buyer who is a consumer may have against the Two-person Lift team).
- 11.9 The Buyer is solely liable for ensuring that the Delivery Carrier has access to its delivery address (and for delivery by Two-person Lift only to the Buyer's preferred room or any alternative acceptable to the Two-person Lift team) which is free from all obstacles. If the Delivery Carrier is of the opinion that it is unable to deliver the Lot to the delivery address (and/or for delivery by Two-person Lift only to the applicable room) it may deliver the Lot as close to the entrance of the delivery address (or applicable room) as it deems reasonably possible. Delivery will be deemed to have occurred at that point. The Buyer shall immediately ensure that the Lot does not cause an obstruction and is removed from any public highways or pavements or access points.
- 11.10 If the Lot is being delivered by Parcel Delivery and the Delivery Carrier for that particular Lot has expressly offered the Buyer delivery to a safe place, pick up point or neighbour and the Buyer has nominated to use one of those options for that Lot, that Lot will be delivered, as specified by the Buyer, to one of the following locations:
- 11.10.1 the safe place at or near the Buyer's address;
- 11.10.2 the pick-up point; or
- 11.10.3 a neighbour.

Where nominated by the Buyer however, JOHN PYE AUCTIONS and the Delivery Carrier may, at any time (including after approval of the Buyer's request), for any reason and at their entire discretion, decline to leave the Lot at the place nominated by the Buyer. If the Lot is delivered to the place nominated by the Buyer, then delivery will be deemed to have occurred at the time the Lot is left by the Delivery Carrier at the place so nominated and the risk in the Lot (including in relation to loss, theft or damage) will transfer to the Buyer at the point of deemed delivery. The option for the Buyer to nominate a place for delivery will not be available for all Delivery Carriers and Lots or for each and every Lot.

- 11.11 In the case of delivery by Two-person Lift, in the event that any damage to property, or any items comprising the Lot occurs prior to (in the case of any damage to items comprising the Lot only) or during the delivery of the Lot (in the case of any damage to property and/or any items comprising the Lot), and/or if any items comprising the Lot are missing on delivery, the Buyer must either notify the Two-person Lift team present at the time of the delivery so that the damage, and/or missing items can be noted by the Two-person Lift team on the delivery documents, or the Buyer must itself note the damage, and/or missing items on the delivery documents at the time of delivery and in all cases the Buyer must notify JOHN PYE AUCTIONS in writing of the damage and/or any missing items on the date of delivery or, in the case of any missing items on the expected date of delivery.
- 11.12 In the case of delivery by Parcel Delivery, in the event that any damage to any items comprising the Lot occurs prior to or during the delivery of the Lot, and/or if any items comprising the Lot are missing on delivery, the Buyer must notify the Delivery Carrier within 14 days of the date of despatch of the Lot or expected date of despatch for missing items and provide supporting evidence as requested by the Delivery Carrier within the timescales specified by the Delivery Carrier and in all cases the Buyer must notify JOHN PYE AUCTIONS in writing of the damage and/or any missing items within 14 days of the date of despatch or, the expected date of despatch in the case of any missing items.
- 11.13 The Buyer shall comply with all directions of JOHN PYE AUCTIONS and the Delivery Carrier for delivery of the Lot.
- 11.14 Delivery may be made in instalments as decided by JOHN PYE AUCTIONS and the Delivery Carrier. Separate delivery charges may be applicable for each instalment.
- 11.15 JOHN PYE AUCTIONS shall not be liable to the Buyer or any other person for:
- 11.15.1 loss of or damage to the Lot whilst the Lot is in the custody or control of the Delivery Carrier;
 - 11.15.2 loss of or damage to property caused by the Delivery Carrier;
 - 11.15.3 any loss or damage to the Lot which is not noted on the delivery documents and/or not notified to JOHN PYE AUCTIONS in accordance with clause 11.11 and/or 11.12 above; or
 - 11.15.4 any delay in the delivery of the Lot,
- this clause 11.15 does not apply to a Buyer who is a Consumer.
- 11.16 In any event any claim made by a Buyer that any damage to property, or any items comprising a Lot occurs prior to or during the delivery of the Lot, and/or that any items comprising the Lot are missing on delivery, must be made within 30 days of the date of delivery or expected date of delivery in the case of missing items.

12. REMOVAL FROM THE PREMISES & COLLECTION OF GOODS

- 12.1 Where the Buyer has obtained JOHN PYE AUCTIONS' prior written consent for the Buyer (or someone acting on its behalf) to collect the Lot from the Premises the following terms in this clause 12 shall apply.

- 12.2 The Buyer or its authorised agent shall, at its own expense and risk, remove all items comprising the Lot including packaging from the Premises no later than 5pm UK time on the Working Day that immediately follows the date that JOHN PYE AUCTIONS receives payment for the Lot in full or, subject always to clause 20.5 and clause 20.6, such other date that JOHN PYE AUCTIONS agrees in writing with the Buyer. If JOHN PYE AUCTIONS agrees in writing to the removal of a particular Lot or specific items in a particular Lot on an alternative date and/or time to 5pm on the Working Day immediately following the date of receipt of payment expressed above, that alternative date and/or time applies only to that Lot or the specific items in that Lot, as applicable and, without limitation, does not apply to all and any of the following, any other Lot, any other items, any subsequent Contract entered into by that Buyer, any subsequent dealings between the parties. In all circumstances, JOHN PYE AUCTIONS shall be under no obligation to release the Lot to the Buyer until it has been able to confirm to its satisfaction that it has received full payment for all amounts due.
- 12.3 JOHN PYE AUCTIONS shall only release the Lot to the Buyer or its authorised agent, not to any third party. Removal shall take place during JOHN PYE AUCTIONS normal working hours. For the avoidance of doubt, the Buyer or their authorised agent shall not be permitted to remove the Lot, or to procure the removal of the Lot, from the Premises without obtaining JOHN PYE AUCTIONS' prior written consent. Before the Lot is released to the Buyer (or its authorised agent), JOHN PYE AUCTIONS may require (and the Buyer shall in such circumstances provide) written authority from the Buyer that its agent is authorised to collect the Lot from the Premises on the Buyer's behalf.
- 12.4 The Buyer may be required to conduct a full and complete risk assessment acceptable to JOHN PYE AUCTIONS or the Seller (and provide the same to JOHN PYE AUCTIONS) before the Lot can be removed from the Premises. The Buyer shall be solely responsible for ensuring the safe and lawful removal of the Lot from the Premises and for their onward transfer.
- 12.5 The Buyer shall make good any damage caused by it or its employees, representatives, agents or subcontractors in effecting removal of the Lot including, without limitation, any damage caused to any adjoining Lot or Lots or goods and damage caused to any utilities at the Premises.
- 12.6 The Buyer shall obtain adequate insurance (including, without limitation, public liability insurance and employer's liability insurance) in respect of the removal of the Lot.
- 12.7 JOHN PYE AUCTIONS reserves the right to require the Buyer to pay a deposit of such sum as JOHN PYE AUCTIONS considers (in its absolute discretion) reasonable in respect of any damage that is likely to be caused to the Premises, or to any property in the Premises, by the removal of the Lot ("**Damage Deposit**"). If the Buyer refuses to pay any such Damage Deposit, JOHN PYE AUCTIONS shall be entitled to refuse to allow the Buyer to remove the Lot and the Buyer shall be deemed to be in default under clause 14.
- 12.8 Where the Buyer has paid the Damage Deposit to JOHN PYE AUCTIONS, JOHN PYE AUCTIONS may apply the Damage Deposit against the cost of repairing any damage caused to the Premises or to any property by the removal of the Lot.

12.9 The Buyer shall indemnify and keep indemnified JOHN PYE AUCTIONS and the Seller against any and all liabilities, costs, claims, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and any and all other reasonable professional costs and expenses) suffered, incurred or paid by JOHN PYE AUCTIONS and/or the Seller arising out of or in connection with the removal of, or failure to remove, the Lot by the Buyer, its representatives, agents, or contractors, including in respect of any damage to property, death or personal injury.

13. HEALTH AND SAFETY

13.1 The Buyer acknowledges and accepts that the Lot may contain hazardous or deleterious materials and substances and may be subject to health and safety legislation, including without limitation the Health and Safety Act 1974, the Environmental Protection Act 1990, the Construction (Design and Management) Regulations 2007, the Control of Substances Hazardous to Health Regulations 2002 and the Furniture and Furnishings (Fire) (Safety) Regulations 1988.

13.2 The Buyer acknowledges and accepts that the Lot may not comply with the relevant health and safety legislation at the time they are sold, may not be suitable for domestic use, and/or may require specialist handling or treatment prior to their removal from the Premises, during the physical transfer to the Buyer, and prior to their use.

13.3 It is the Buyer's sole responsibility to ensure that it understands, and complies at all times with, any and all health and safety legislation and codes of conduct relating to the Lot and the use of the Lot (including, where clause 12.1 applies, at all times during the removal of the Lot from the Premises).

13.4 The Buyer agrees and undertakes that it will relieve the Seller and JOHN PYE AUCTIONS of any duties pursuant to sections 6 of the Health and Safety at Work Act 1974 in respect of the Lot.

13.5 The Buyer shall provide JOHN PYE AUCTIONS with written undertakings (in a form acceptable to JOHN PYE AUCTIONS and in addition to those given by the Buyer on registration with JOHN PYE AUCTIONS) that the Buyer will comply with all duties and obligations in respect of the Lot imposed by the Health and Safety at Work Act 1974.

14. BUYER DEFAULT

Non-Payment

14.1 If the Buyer fails to pay in full any of the amounts due under the Contract on the due date for payment, without prejudice to any other right or remedy that the Seller and/or JOHN PYE AUCTIONS may have, JOHN PYE AUCTIONS and/or the Seller may do any or all of the following:

14.1.1 terminate the Contract;

14.1.2 retain the Deposit paid by the Buyer;

- 14.1.3 charge the Buyer for monies owed in respect of costs incurred by JOHN PYE AUCTIONS and the Seller, including the cost of removing, storing and insuring the Lot (whether at the Premises or otherwise) and JOHN PYE AUCTIONS reserves the right to notify and charge the Buyer the cost of storage when that amount has to be ascertained from a third party. For the avoidance of any doubt those costs are payable per individual Lot;
- 14.1.4 refuse to accept, and may reject, any Bid placed or which the Buyer attempts to place in a different or future auction or sale or otherwise restrict the Buyer's account;
- 14.1.5 withhold the sale and/or release to the Buyer of any other goods purchased by the Buyer until the earlier of the date that the Buyer pays all amounts due under the Contract in full or the date that the Seller terminates the Contract;
- 14.1.6 apply any proceeds of sale due to the Buyer towards settlement of any unpaid payments due from the Buyer; and/or
- 14.1.7 exercise a lien on any of the Buyer's property which is for any purpose in the possession of JOHN PYE AUCTIONS.

Non-Removal of a Lot

14.2 If the Buyer has received prior written consent from JOHN PYE AUCTIONS to remove the Lot from the Premises pursuant to clause 12.1 but fails to remove the Lot from the Premises in accordance with clause 12.2, without prejudice to any other right or remedy that the Seller and/or JOHN PYE AUCTIONS may have, JOHN PYE AUCTIONS and/or the Seller may do any or all of the following:

- 14.2.1 charge the Buyer;
 - 14.2.1.1 an administration fee of £50 plus VAT per Invoice;
 - 14.2.1.2 a daily fee of £5 plus VAT per Lot for continued storage of the Lot, whether at the Premises or at new premises that the Lot is moved to;
 - 14.2.1.3 the cost of storage and insurance of the Lot (whether at the Premises or elsewhere) and JOHN PYE AUCTIONS reserves the right to notify and charge the Buyer the cost of storage when that amount has to be ascertained from a third party. For the avoidance of any doubt those costs are payable per individual Lot,

until the earlier of the date that the Buyer removes the Lot from the Premises (or such replacement premises) and the date the Seller terminates the Contract. The Buyer must pay all sums due to JOHN PYE AUCTIONS pursuant to clause 14.2.1 before the Buyer will be permitted to remove the Lot from the Premises;

and/or

14.2.2 move the Lot to another premises, such removal shall be at the Buyer's risk provided that JOHN PYE AUCTIONS shall use reasonable skill and care;

and/or

14.2.3 terminate the Contract.

Failed Delivery

14.3 If delivery of the Lot to the Buyer's address has been arranged with JOHN PYE AUCTIONS and the Buyer fails to accept delivery pursuant to clause 11.5 and/or 11.7, then without prejudice to any other right or remedy that the Seller and/or JOHN PYE AUCTIONS may have, JOHN PYE AUCTIONS and/or the Seller may do any or all of the following:

14.3.1 charge the Buyer an administration fee if delivery is not accepted under clause 11.5, which is capped at £50 plus VAT per Invoice;

and/or

14.3.2 charge the Buyer a weekly storage fee of £15 per Lot per week plus VAT for continued storage of each Lot if delivery is not accepted under clause 11.5, which is capped at £30 plus VAT per Lot;

and/or

14.3.3 charge the Buyer an additional storage fee and/or a further delivery fee in each case per Lot if JOHN PYE AUCTIONS agrees to further storage of the Lot and/or re-delivery by the Delivery Carrier under clause 11.7 and JOHN PYE AUCTIONS reserves the right to notify and charge the Buyer the cost of storage when that amount has to be ascertained from a third party. For the avoidance of any doubt those costs are payable per individual Lot;

and/or

14.3.4 terminate the Contract (either following failed delivery under clause 11.5 and/or 11.7).

Termination

14.4 The Seller and/or JOHN PYE AUCTIONS can terminate the Contract without incurring any liability to the Buyer and without prejudice to any other right or remedy that the Seller and/or JOHN PYE AUCTIONS may have, if:

14.4.1 the Buyer fails to pay any sum due by the due date for payment;

14.4.2 the Buyer fails to comply with its obligations under clause 11 or clause 12 as applicable;

14.4.3 the Buyer fails to remove the Lot from the Premises on the date and at the time agreed by JOHN PYE AUCTIONS;

14.4.4 the Buyer fails to comply with its obligations under clause 13.3 and/or 13.5;

14.4.5 the Lot cannot be removed from the Premises without causing, or being reasonably likely to cause, damage to the Premises or to any property or person;

- 14.4.6 a third party provides evidence satisfactory to JOHN PYE AUCTIONS that it has superior title or right to the custody or possession of the Lot;
- 14.4.7 the Lot is unlawful (including, without limitation, if the Lot contains Goods which it is unlawful to sell) or if the Lot infringes any third party rights
- 14.4.8 a product recall is issued affecting the Lot;
- 14.4.9 a government or public authority (such as Trading Standards) issues a restriction or prohibition on sale or requires the sale to be terminated, and

the Contract shall be deemed terminated from either (a) the date that JOHN PYE AUCTIONS markets the Lot for resale; or (b) such other date as JOHN PYE AUCTIONS may inform the Buyer.

If the Contract is terminated under clause 14.4.1, 14.4.2, 14.4.3, and/or clause 14.4.4 or the Contract is deemed terminated for one of the reasons described in any of those clauses, the Buyer shall be liable to pay JOHN PYE AUCTIONS the Defaulter's Entry Fee. For the avoidance of any doubt the Defaulter's Entry Fee is payable per Lot and not per Invoice.

14.5 In the event that the Contract is terminated under clause 14.4.1, without prejudice to any other rights or remedies of the Seller and/or JOHN PYE AUCTIONS:

- 14.5.1 any Deposit or other amount paid by the Buyer under the Contract (if any) shall be forfeited to the Seller except those amounts that are due to JOHN PYE AUCTIONS;
- 14.5.2 the Seller may (but shall not be obliged to) dispose of or resell the Lot in whole or in part to a third party without restriction and without having to account to the Buyer for any increase or decrease to the price that was originally agreed to be paid by the Buyer; and
- 14.5.3 any proceeds of such resale received from the third party buyer (excluding Buyer Premium and any VAT paid) shall be applied to discharge the liabilities owed to JOHN PYE AUCTIONS that were not satisfied by the amounts forfeited under clause 14.5.1, including any liabilities owed to JOHN PYE AUCTIONS by the buyer that purchases in the re-sale, with the remainder paid to the Seller.

14.6 Where the Contract is terminated under clause 14.4.2, 14.4.3 and/or 14.4.4, without prejudice to any other rights or remedies of the Seller and/or JOHN PYE AUCTIONS:

- 14.6.1 any Deposit or other amount paid by the Buyer under the Contract shall be forfeited to the Seller except those amounts that are due to JOHN PYE AUCTIONS;
- 14.6.2 no earlier than 14 days after the date that the Buyer is obliged to make payment in full pursuant to clause 10.3, the Seller may (but shall not be obliged to) dispose of or resell the Lot in whole or in part to a third party without restriction and without having to account to the Buyer for any increase or decrease to the price that was originally agreed to be paid by the Buyer; and
- 14.6.3 any proceeds of such resale received from the third party buyer (excluding Buyer Premium and any VAT paid) will be applied to discharge the liabilities owed to JOHN PYE AUCTIONS in the following order:

- 14.6.3.1 the Defaulter's Entry Fee per Lot;
- 14.6.3.2 the costs incurred by JOHN PYE AUCTIONS for storage, removal and insurance of the Lot up to the point of conclusion of the resale;
- 14.6.3.3 the Buyer Premium;
- 14.6.3.4 an administration fee of £50 plus VAT per Invoice;
- 14.6.3.5 any other liabilities owed to JOHN PYE AUCTIONS and/or the Seller that were not satisfied by the amounts forfeited under clause 14.6.1, including any liabilities owed to JOHN PYE AUCTIONS and/or the Seller by the buyer in the re-sale; and

once the above liabilities have been discharged, the amounts outstanding (if any) from resale of the Lot shall be paid to the Buyer.

- 14.7 In the event that the Contract is terminated pursuant to clause 14.4.5, clause 14.4.6, clause 14.4.7, clause 14.4.8, or clause 14.4.9, without prejudice to any other right or remedies of the Seller and/or JOHN PYE AUCTIONS, if the Lot has been removed from the Premises, the Buyer shall deliver the Lot to such address as JOHN PYE AUCTIONS shall specify or make available the Lot for collection by JOHN PYE AUCTIONS (at JOHN PYE AUCTIONS' election).
- 14.8 The Buyer shall indemnify and keep indemnified JOHN PYE AUCTIONS and the Seller against all liabilities, costs, claims, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered, incurred or paid by JOHN PYE AUCTIONS and/or the Seller arising out of or in connection with the termination of the Contract (except where terminated pursuant to clause 14.4.5 or clause 14.4.6 or clause 14.4.7 or clause 14.4.8 or clause 14.4.9) and resale of the Lot (including, without limitation, the cost of storage and insurance for the Lot and any loss arising out of the resale of the Lot at a lower price than originally agreed to be paid by the Buyer).
- 14.9 If the Buyer commits a breach of these Terms, JOHN PYE AUCTIONS reserves the right to reject or ignore any bids or offers made by or on behalf of the Buyer at a future auction or sale.

15. INTELLECTUAL PROPERTY RIGHTS

- 15.1 Where the Lot has been de-branded/de-badged, the Buyer shall ensure that the Lot remains de-branded or de-badged. No original trademarks, web images, logos or any other Intellectual Property Rights may be copied or used by the Buyer. Failure to comply with this restriction may result in the Buyer being permanently excluded from JOHN PYE AUCTIONS' auctions and sales.
- 15.2 Any use by the Buyer of the Lot (including without limitation computer software) shall be subject to the terms of any existing licence or other Intellectual Property Rights in and to such Lot.

15.3 All Intellectual Property Rights in and to the Website and the Important Notes and any advertising materials, catalogues or brochures issued by JOHN PYE AUCTIONS and any photographs, illustrations or other images of the Lot are and shall remain the property of JOHN PYE AUCTIONS or the Seller or their licensors. The Buyer shall not copy, reproduce, alter, adapt, modify, translate or deface such Intellectual Property Rights in whole or in part for any purpose.

16. LIMITATION OF LIABILITY (CONSUMER ONLY)

16.1 This clause 16 applies only to Buyers who are Consumers.

16.2 Buyers are reminded that JOHN PYE AUCTIONS acts only as an agent of the Seller and is not the manufacturer or supplier or owner of the Lot.

16.3 Nothing in these Terms shall limit or exclude the liability of JOHN PYE AUCTIONS, the Seller, or those third parties connected to JOHN PYE AUCTIONS and/or the Seller, and each of their directors, employees, subcontractors and agents, for:

16.3.1 death or personal injury caused by its or their negligence;

16.3.2 fraud or fraudulent misrepresentation; and

16.3.3 any matter in respect of which it would be unlawful to exclude or restrict liability.

16.4 If JOHN PYE AUCTIONS or the Seller fails to comply with these Terms, it or they shall be responsible for loss or damage the Bidder or the Buyer (as applicable) suffers that is a foreseeable result of its or their breach of these Terms or its or their negligence, but no party referred to in clause 16.3 is responsible for any loss or damage that is not foreseeable. Loss or damage is foreseeable if it was an obvious consequence of the breach or if it was contemplated by the parties to the Contract at the time the Contract was entered into.

17. LIMITATION OF LIABILITY (NON-CONSUMERS)

17.1 This clause 17 applies only to non-Consumers.

17.2 Buyers are reminded that JOHN PYE AUCTIONS acts only as an agent of the Seller and is not the manufacturer or supplier or owner of the Lot.

17.3 Subject to clause 17.5, the Buyer acknowledges that the Seller may be a trustee in bankruptcy or be represented, in relation to the sale of the Lot, by one or more liquidator, administrator or insolvency practitioner ("**Seller's Agent**") and the Buyer agrees that the Seller's Agent is (or are) acting as agent on behalf of the Seller and shall incur no personal liability whatsoever whether on their own part or in respect of any part of the Seller to observe, perform or comply with any obligations hereunder, whether such liability would arise under the Insolvency Act 1986 or otherwise.

17.4 Subject to clause 17.5, all conditions, warranties and other terms which might otherwise be implied by statute, common law or the law of equity, including without limitation the terms implied by section 13 to 15 of the Sale of Goods Act 1979, are, to the fullest extent permitted by law, expressly excluded.

- 17.5 Nothing in these Terms shall limit or exclude the liability of JOHN PYE AUCTIONS, the Seller, or those third parties connected to JOHN PYE AUCTIONS and/or the Seller, and each of their directors, employees, subcontractors and agents for:
- 17.5.1 death or personal injury caused by negligence
 - 17.5.2 fraud or fraudulent misrepresentation;
 - 17.5.3 breach of the terms implied by section 12 of the Sale of Goods Act 1979 (however, attention is drawn to clause 9.1);
 - 17.5.4 any other matter for which it would be illegal or unlawful to exclude or attempt to exclude liability.
- 17.6 Subject to clause 17.5 and clause 17.7, the liability of JOHN PYE AUCTIONS and the Seller and those third parties connected to JOHN PYE AUCTIONS and the Seller, and each of their directors, employees, subcontractors and agents, for loss incurred or suffered by any Bidder or the Buyer or any other person arising out of or in connection with the Contract or the Lot, shall be limited to the price paid by the Buyer for the Lot or, where no price has been paid, limited to the price agreed under clause 4.6.
- 17.7 Subject to clause 17.5, JOHN PYE AUCTIONS and the Seller and those third parties connected to JOHN PYE AUCTIONS and the Seller, and each of their directors, employees, subcontractors and agents shall under no circumstances whatsoever be liable to any Bidder or the Buyer or any other person, under or in connection with the Contract or the Lot, whether in contract, tort (including negligence), breach of statutory duty, misrepresentation, or otherwise, for any:
- 17.7.1 loss of profits;
 - 17.7.2 loss of income or revenue;
 - 17.7.3 loss of business or business opportunity;
 - 17.7.4 loss of anticipated savings;
 - 17.7.5 loss of, or corruption or damage to, information or data;
 - 17.7.6 loss or damage to goodwill;
 - 17.7.7 wasted management or office time;
 - 17.7.8 loss arising from third party claims;
 - 17.7.9 indirect, special or consequential loss.

18. DATA PROTECTION

- 18.1 Personal data that is processed by JOHN PYE AUCTIONS in relation to the Contract shall be processed by JOHN PYE AUCTIONS in accordance with its Privacy Policy which can be viewed at www.johnpyetrade.co.uk/terms/privacy.

19. FORCE MAJEURE

- 19.1 JOHN PYE AUCTIONS and the Seller shall not be liable to the Buyer for any delay or failure in the performance of its or their obligations under the Contract caused by factors beyond its or their reasonable control including (without limitation):
- 19.1.1 acts of God, flood, drought, earthquake or other natural disaster;
 - 19.1.2 epidemic, pandemic or public health crisis;
 - 19.1.3 terrorist attack, civil war, civil commotion or riots, war, threat or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations;
 - 19.1.4 nuclear, chemical or biological contamination or sonic boom;
 - 19.1.5 any law or action taken by a government or public authority, including without limitation, imposing an export or import restriction, quota, or prohibition, or failing to grant a necessary licence or consent;
 - 19.1.6 collapse of building, fire, explosion or accident;
 - 19.1.7 any labour or trade disputes, strikes, industrial action or lock-outs;
 - 19.1.8 non-performance by suppliers or subcontractors (including by any Delivery Carrier); or
 - 19.1.9 interruption or failure of utility service.

19.2 In such circumstances, JOHN PYE AUCTIONS shall notify the Buyer and take reasonable steps to minimise any delay. The time for performance by JOHN PYE AUCTIONS and/or the Seller shall be deemed to be extended for the period that any of the above continues.

19.3 If the Buyer is a Consumer and there is a substantial delay or failure in the performance of JOHN PYE AUCTIONS or the Sellers' obligations under the Contract, the Buyer may terminate the Contract and receive a refund.

20. **GENERAL TERMS**

20.1 JOHN PYE AUCTIONS reserves the right to revise and amend these Terms from time to time to reflect changes:

- 20.1.1 in market conditions affecting its business;
- 20.1.2 in technology;
- 20.1.3 in payment methods;
- 20.1.4 in relevant laws and regulatory requirements; and
- 20.1.5 in various systems capabilities.

Such amendments shall be posted on the Website and shall be effective immediately provided that such amendments shall not affect any contract already concluded under clause 4.6.

- 20.2 Except as set out in these Terms, no other variation of these Terms, including the introduction of any additional terms and conditions, shall be effective unless agreed in writing signed by JOHN PYE AUCTIONS.
- 20.3 If any court or competent authority decides that any provision whether in whole or part within these Terms is 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 and enforceable to the fullest extent permitted by law.
- 20.4 If, or to the extent that, any of these Terms (as amended from time to time in writing by JOHN PYE AUCTIONS) 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 consumer legislation 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.
- 20.5 If at any time JOHN PYE AUCTIONS fails to insist that the Seller and/or Buyer perform their obligations under the Contract, or if JOHN PYE AUCTIONS does not exercise any of its rights or remedies under the Contract, that will not mean that JOHN PYE AUCTIONS 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 AUCTIONS waives a default by the Seller and/or Buyer that will not mean that JOHN PYE AUCTIONS automatically waives any prior and/or subsequent default by the Seller and/or Buyer. No waiver by JOHN PYE AUCTIONS of any of the Contract shall be effective unless JOHN PYE AUCTIONS expressly states that it is a waiver and JOHN PYE AUCTIONS tell the Buyer and Seller so in writing.
- 20.6 No waiver by the Seller shall be effective unless the Seller expressly states that it is a waiver and the Seller tells the Buyer and JOHN PYE AUCTIONS so in writing.
- 20.7 The Contract constitutes the entire agreement between the parties and supersedes all prior representations, agreements, negotiations and understandings between the parties.
- 20.8 The Buyer acknowledges and agrees that it has not relied on any statement, promise or representation made or given by, or on behalf of, JOHN PYE AUCTIONS or the Seller which is not set out in these Terms.
- 20.9 With the exception of JOHN PYE AUCTIONS, a person who is not party to the Contract shall not have any rights under or in connection with them under Contracts (Rights of Third Parties) Act 1999.
- 20.10 The Contract, the sale of the Lot, any disputes and/or claims arising out of it shall be governed by English law and JOHN PYE AUCTIONS, the Seller and the Buyer all agree to the exclusive jurisdiction of the English courts to resolve any such disputes. However, if the Buyer is a Consumer and resident of Scotland, Wales or Northern Ireland, the Buyer may bring proceedings in their local court.
- 20.11 No party may commence any court proceedings or arbitration in relation to any dispute arising out of the Contract until it has attempted to resolve the dispute via mediation and either the mediation has terminated or the other party has declined or failed to participate in mediation, provided that the right to issue proceedings is not prejudiced by a delay. A copy of JOHN PYE AUCTIONS' complaints policy is available from JOHN PYE AUCTIONS on request.

21. CONTACT JOHN PYE AUCTIONS

21.1 For questions, comments or complaints, please contact JOHN PYE AUCTIONS using the details below:

Online Chat: available on www.johnpye.co.uk and www.johnpyeauctions.co.uk and [Customer Service \(johnpye.co.uk\)](mailto:info@johnpye.co.uk)

Write: Customer Service Manager, John Pye Auctions, Head Office, James Shipstone House, Radford Road, New Basford, Nottingham, NG7 7EA.

Email: info@johnpye.co.uk

Call: 0115 9 70 60 60

Enquiry Form: [Customer Enquiry Form \(johnpye.co.uk\)](#)

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