

# IMPORTANT INFORMATION FOR BUYERS AND SELLERS

If you have property you wish to sell at auction, please contact the appropriate department as listed on our website to arrange for a consultation.

Please read the following Conditions of Business. We will be happy to give assistance on any aspects about which you may be unclear. Tel: (612) 9326 1588. Specialists in charge of a sale can be consulted at any time, either in person or by telephone, to give advice on specific lots. See the contact link for details of whom to contact.

## PROVENANCE

In certain circumstances, Shapiro Auctioneers may print in the catalogue the history of ownership of a work of art if such information contributes to scholarship or is otherwise well known and assists in distinguishing the work of art. However, the identity of the seller or previous owners may not be disclosed for a variety of reasons. For example, such information may be excluded to accommodate a Seller's request for confidentiality or because the identity of prior owners is unknown.

## CATALOGUES AND PRICE LISTS

These can be obtained on annual subscription or from any Shapiro Auctioneers office or auction and viewing venues.

## PRE-SALE ESTIMATES

The estimated selling price of each lot is printed beside the lot description and does not include the Buyer's Premium (or GST, when this is payable on the hammer price, as indicated by the symbol +, see GST). The estimates are prepared well in advance of the sale, are not definitive, and are subject to revision. The pre-sale estimates are intended as a guide for prospective buyers. Any bid between the listed figures would, in our opinion, offer a reasonable chance of success. However, all lots, depending on the degree of competition, can realise prices either above or below the listed estimates. It is always advisable to consult Shapiro Auctioneers nearer the time of sale as estimates can be subject to revision.

## BUYER'S PREMIUM

A Buyer's Premium on each lot at a rate of 25% including GST, is payable by the buyer on the hammer price of each lot.

## CONDITION OF LOTS

The Buyer's attention is specifically drawn to Clauses 3 and 4 of the Conditions of Business and should particularly note that all lots are sold 'as is'. Shapiro Auctioneers makes no representation as to the condition of any lot sold and intending buyers should always satisfy themselves as to the condition of any lot prior to purchase.

## DAMAGE AND RESTORATION

For your guidance, in this catalogue our senior specialists may have indicated defects, imperfections and restoration which they felt to be significant. This description is not intended to be definitive, and in no way guarantees that there are no other defects, imperfections or restoration present which have not been mentioned.

## CONDITION REPORTS

Prospective buyers are encouraged to inspect property at presale viewings. If unable to personally inspect property, solely as a convenience, Shapiro Auctioneers may provide condition reports which are merely statements of opinion and not of fact. Shapiro Auctioneers staff are available during pre-auction viewing times and by appointment to advise prospective buyers on particular items or on any aspect of the auction procedure, but the 'as is' provision prevails. To assist intending purchasers who are unable to view the sale, Shapiro Auctioneers is happy to fax a detailed condition report listing any significant faults, such as severe wear or discolouration. Condition reports are prepared by our senior specialists and at busy periods there may be a delay of a few days in complying with such requests. These reports are for guidance only and are given without prejudice to our Conditions of Business. Please note verbal requests will not be granted within 24 hours of the sale, or later than the end of the working day prior to a sale, as written confirmation of such reports must be received by clients prior to the sale. **No condition reports or jpg images will be provided on lots estimated less than \$1,000.**

## GST - INFORMATION FOR BUYERS AND SELLERS.

This information is not intended to be definitive or complete and if you have any queries with regard to the applicability or effect of GST you should obtain your own independent legal and/or accounting advice. GST is a tax on Goods and Services. In all cases the GST legislation takes precedence and the GST rate which applies is that in effect on the day liability for GST arises in connection with the relevant transaction.

Shapiro Auctioneers has to account for GST on the cost of goods and services provided by it. Accordingly GST is added by Shapiro Auctioneers to its Buyer's Premium and Seller's Commission, as well as to the cost of insurance, storage and other services supplied by Shapiro Auctioneers or its nominated suppliers. GST may also be payable in respect of some goods auctioned by Shapiro Auctioneers. Whether or not those goods attract GST will be indicated in the sale catalogue by a + symbol.

If an item has the + symbol alongside it in the catalogue then GST is to be added to the Hammer Price because the Hammer Price does not include GST. The buyer will have to pay the Hammer Price as well as a further amount so that we will receive an amount (the GST inclusive amount) which after subtracting the relevant amount of GST payable will leave as the resulting amount an amount which is the same as the Hammer Price. Where there is no GST symbol GST will not be added to the Hammer Price for the item sold (note the Buyer's Premium plus the GST on the Buyer's Premium is to be added to the Hammer Price).

Overseas Buyers: Exported goods will be GST free when the goods are exported through Shapiro Auctioneers, within the earlier of (a) 60 days of the date any payment is made for the goods; or (b) 60 days from the date on which an invoice for the goods is provided. If goods

are released to a local third party, or exported via an agent not in the services of Shapiro Auctioneers, the full amount of the invoice including GST must be paid prior to release. If the export is not made before the end of the 60 days period the GST free status of those goods will be lost unless the commissioner of taxation allows further time. The exported goods will not be GST free if they are reimported into Australia.

## CAPITAL GAINS TAX

In accordance with Australian capital gains tax legislation, valuation and date of purchase of property has now become extremely important. All assets which have been purchased prior to 20th September 1985, are generally not subject to capital gains tax if sold by the individual who originally purchased it. However, in the event of death the property may be passed on to the beneficiary. The beneficiary is deemed to acquire the asset at its market value at the date of the death and will be subject to capital gains tax on subsequent disposal. Hence valuation of property is extremely important to ensure capital gains tax liability is minimised. In some circumstances corporations owning property upon reorganisation will also trigger capital gains tax liabilities.

## ELECTRICAL GOODS

It is essential that lots which were originally operated by mains electricity be checked by the buyer prior to use. They may not comply with the current statutory requirements and as such are offered for sale solely for display or historical purposes and may or may not be suitable for connection to the mains electricity supply.

## TRADE EMBARGOES

Trade embargoes are currently imposed by the United Nations against Iraq, Serbia and Montenegro. For assistance and further details please contact the appropriate Federal Government department.

## EXPORT

The export of any lot from Australia or import into any other country may be subject to one or more export or import licences, as the case may be. It is the Buyer's responsibility to obtain any relevant export or import licences. If requested, Shapiro Auctioneers will assist in obtaining required permits with any and all associated costs payable by the Buyer. Lots purchased shall be paid for in accordance with the Conditions of Business and the denial of any export or import licences or any delay in the obtaining of such licences shall not justify the rescission or cancellation of any sale or any delay in making payment of the total amount due under the Conditions of Business for the lot.

## ENDANGERED SPECIES

Items made of or incorporating animal material such as ivory, whale bone, tortoiseshell, skins etc., irrespective of age or value, may require a specific licence prior to transportation interstate or overseas. Shapiro Auctioneers suggests that prior to the auction, prospective buyers check with the appropriate government department regarding the importation and exportation of such items.

## CULTURAL HERITAGE ITEMS

It is the responsibility of the buyer of a lot to obtain any permit required under the Protection of the Movable Cultural Heritage Act 1986, the Wildlife Protection (Regulations of Exports and Imports) Act 1982 and any other legislation (all as amended) which may restrict or prohibit the export of a lot outside a State or the Commonwealth of Australia.

## BIDDING

### ABSENTEE BIDS

If instructed, Shapiro Auctioneers will execute bids for an intending buyer. This service is free. Absentee bids, when placed by telephone, are accepted only at the sender's risk and should be confirmed before the sale by letter or facsimile. **We urge you most strongly to send bids so that they are received at least twenty-four (24) hours before commencement of the auction.** Lots will always be bought as cheaply as is allowed by other bids and the reserves on Shapiro Auctioneers' books. In the event of identical bids, the first bid received will take precedence. Always indicate a top limit - the amount to which you would bid if you were attending the auction yourself. 'Buy' or unlimited bids will not be accepted. We will not advise any such bidder of the existence of a higher bid.

### TELEPHONE BIDS

If you wish to bid on a lot by telephone during the auction, complete the absentee bid form giving lot number and description, your name, address and telephone number where you can be contacted during the sale. Send it to one of Shapiro Auctioneers' offices. Just prior to the lot, a Shapiro Auctioneers representative will telephone you and bid on your behalf in the room, if they are able to connect with you on the phone. Technical faults can interfere with telephone bidding. Shapiro Auctioneers is happy to execute bids by telephone, but stress that it is not a secure manner by which to bid and therefore, Shapiro Auctioneers cannot be held responsible for any telephone failure or missed bids.

### ABSENTEE BID FORMS

For absentee bids please use the absentee bid form as available online or from Shapiro Auctioneers' offices. Always quote the auction title, code and date and check lot numbers and descriptions. Each absentee bid form should contain bids for one auction only. Alternative bids can be placed by using the word 'OR' between lot numbers. A bid by these methods is accepted at the sender's risk. Telephone bids must be confirmed in writing.

For Sydney:

Tel: (612) 9326 1588. Fax: (612) 9326 1305.

By Post: 162 Queen Street, Woollahra NSW 2025 Australia

### EMPLOYEE BIDDING

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

## PADDLE BIDDING

To assist the progress of the sale, all intending buyers must register and collect a bidding paddle/card before the commencement of the sale. All intending buyers should bring with them some means of identification. The numbered paddle/card must be used to indicate your bids to the auctioneer during the sale. Should you be the successful buyer of any lot, please ensure that your bidding paddle/card can be seen by the auctioneer and that it is your number which is called out. Should there be any doubts as to price or buyer, please draw the auctioneer's attention to it immediately. All lots sold will be invoiced to the name and address given against the issue of the numbered bidding paddles/cards and cannot be transferred to other names and addresses. Please do not mislay your paddle/card; in the event of loss, inform staff at the registration desk. This system does not apply to absentee bidders - i.e. bidders who have left bids with the auctioneer prior to the sale.

### CONSECUTIVE AND SUCCESSIVE BIDDING

The auctioneer may open the bidding on any lot by placing a bid on behalf of the seller. The auctioneer may further bid on behalf of the seller, up to the amount of the reserve, by placing responsive or consecutive bids for a lot.

### SUCCESSFUL BIDS

Successful bidders receive an invoice detailing purchases, which may be collected from the sale venue or Shapiro Auctioneers' office following the auction (please contact Shapiro Auctioneers' offices to confirm collection point). Successful commission bidders are advised as soon as possible after the sale and given instructions regarding payment and collection of purchases.

### BIDDING INCREMENTS GUIDELINES

The following bidding intervals are generally used subject to the auctioneer's full discretion. Postal and commission bids that do not conform with these intervals may be lowered to the next bidding interval:

\$A 500-1 000	by \$A 50
\$A 1 000-2 000	by \$A 100
\$A 2 000-5 000	by \$A 200
\$A 5 000-10 000	by \$A 500
\$A 10 000-20 000	by \$A 1 000
\$A 20 000-50 000	by \$A 2 000
\$A 50 000 onwards	at auctioneer's discretion.

### CHALLENGES TO BIDDING INCREMENTS

Challenges are occasionally made to the bidding increment suggested by the auctioneer. For example, if the auctioneer calls for a bid of \$A 3 200, the maximum that a bidder may wish to bid is \$A 3 100. The auctioneer may accept or decline any challenge to the bidding increment as he/she, in their sole discretion, shall determine. However, the general rule is that, to maintain the pace of the sale, the auctioneer will accept a single challenge from one bidder. Thereafter, for that lot, the bidder who challenged the increment will not have his bid recognized. Any bidder, at any time, may call out a bid exceeding the sum asked for by the auctioneer, and continue to bid thereafter.

## METHODS OF PAYMENT

All payments for goods must be received no later than two days after the date of the auction.

**Paying by Cash.** Cash payments can be made at the auction site either during or after a sale within 48 hours of purchase.

**Paying by Cheque.** All cheques should be made payable to Shapiro Auctioneers for the total amount due. If payment is made by post please enclose your invoice. Cheques will be cleared with our Bankers before any item can be removed. On request, cheques can be cleared prior to a sale at the Head Office. Goods will not be released until the full amount (inclusive of all charges) is received. Cheques drawn by third parties cannot be accepted.

**Paying by Credit Card or Eftpos.** Payments be made by Mastercard, Visa or Bankcard, or Eftpos debit will be subject to an additional fee of 2% of invoice total. Shapiro Auctioneers regrets that it is not able to accept payment by other credit or charge cards.

**Paying by Bank Transfer.** Please contact our head office on (612) 9326 1588 for details. Please note that foreign bank transfers will be subject to a handling fee not exceeding \$50.00 to cover bank charges.

**Interest on late payments.** In accordance with the Conditions of Business, interest on the purchase price at a rate of four percent (4%) per annum above the base lending rate quoted by Westpac Banking Corporation from time to time may be charged should purchases not be paid for within two working days after the auction.

### COLLECTION OF PURCHASES

All purchases are to be collected from the auction venue within two (2) working days of the auction. Items not collected during this time may be placed in storage at the Buyer's risk and expense and the Buyer shall be responsible for all removal, storage and insurance charges incurred.

All exports are to be arranged by the Buyer. Shapiro Auctioneers can offer recommendations for shipping agents on request. Lots not cleared during the sale may be transferred to storage or our offices until payment has been received and collection arrangements confirmed.

**Furniture.** Lots will be available for collection from 10.00 am on the day following the sale or as otherwise notified by the auctioneer. Furniture not collected by 12 noon on the day following the sale may be removed to our storage facilities. There will be no charge to purchasers who collect their items within 2 days of the sale. After this period the following charges will be made, per lot, per day, thereafter: Transfer and Administration: \$60.00, plus \$5.00 per day, plus GST. If you have purchased additional items in the same sale, such as rugs or works of art, they will also be removed to storage for collection on the day after the sale and become subject to the charges above.

# IMPORTANT NOTICE

## JEWELLERY

Clients are advised that many coloured gemstones are treated to enhance their properties. For example: heating is commonly used to improve the colour of transparency of rubies and sapphires; and oiling is used to enhance clarity of emeralds. Prospective buyers should bear in mind that, unless otherwise stated, such enhancement methods could have been used. Prospective buyers may request official gemmological reports on non-certified items. Such requests must be made in good time (two weeks before the auction date) and are at the client's cost (prepaid). Enhancement of gemstones may affect market values, and clients are advised that if official gemmological reports are not available, gemstones may have been enhanced. **Condition reports can be requested from Shapiro Auctioneers Jewellery Department specialists on any item in the auction with an estimated sale price over \$2,000.00.**

## ABORIGINAL ART

Some imagery in this catalogue may be of secret/sacred nature and it is suggested that art coordinators for Aboriginal communities show the catalogue to community elders for approval before distributing the catalogue for general viewing. It is suggested that if any images are deemed unsuitable for the viewing of women, children or uninitiated men, that coordinators take appropriate measures prior to general circulation. The English spelling of Aboriginal names has been subject to much variation over time. In this catalogue every effort has been made to use the current linguistic spelling of artist's names and language groups. In some cases, however, information from original certificates has been used, which may result in different spellings of the same story, title and other details.

## EXPLANATION OF CATALOGUING TERMS

The following are examples of the terminology used in our catalogue. Any statement as to authorship, attribution, origin, date, age, provenance and condition is a statement of opinion and is not to be taken as a statement or representation of fact. Shapiro Auctioneers reserves the right, in forming its opinion, to consult and rely upon any expert or authority considered reliable by Shapiro Auctioneers.

## PAINTINGS

- 1 A picture catalogued with the first name(s) and last name of the painter is in our opinion a work by that artist. When an artist's first name(s) is not known, a series of asterisks, followed by the last name of the artist, whether preceded by an initial or not, indicates that in our opinion the work is by the artist named.
- 2 A picture catalogued as Attributed to... is in our opinion probably a work by the artist.
- 3 A picture catalogued as Studio of... is in our opinion a work from the studio of the artist which may or may not have been executed under his/her direction.
- 4 A picture catalogued with ... and Studio is in our

opinion by the artist assisted by a member or members of his/her studio.

- 5 A picture catalogued as Circle of... is in our opinion a work of the period of the artist executed under his/her immediate influence.
- 6 A picture catalogued as Follower of... is in our opinion a work by a painter working in the artist's style, contemporary or nearly contemporary, but not necessarily his/her pupil.
- 7 A picture catalogued as Manner of... is in our opinion a work in a style related to that of the artist, but of a later date.
- 8 A painting catalogued as After an artist is in our opinion a copy of any date after a work by that artist.
- 9 The term signed and/or dated and/or inscribed means that in our opinion the signature and/or date and/or inscription are from the hand of the artist.
- 10 The term bears a signature and/or date and/or an inscription means that in our opinion the artist's name and/or date and/or inscription have been added by another hand.
- 11 All references to signature, inscriptions and dates refer to the present state of the work.
- 12 For Paintings and works on paper Dimensions are given in centimetres (unless otherwise stated), height before width.
- 13 Pictures are executed in oil on canvas unless otherwise stated.
- 14 All works are unframed unless otherwise stated.

## FURNITURE

Furniture and three dimensional works of art are measured height x width x depth, where applicable.

## ASIAN CERAMICS

- 1 An item catalogued with the name of a period, reign or dynasty, without further qualification was, in our opinion, made during or shortly after that period, reign or dynasty.
- 2 An item catalogued "in the style of" a period, reign or dynasty, is in our opinion, quite possibly a copy or imitation of pieces made during the named period.
- 3 A reference to a mark and of the period means that, in our opinion, the piece is of the period of the mark (eg, Kangxi six character mark and of the period).
- 4 A reference to a mark without reference to "and of the period" means that, in our opinion, although bearing the mark, the pieces were possibly not made in the period of the mark (eg, Kangxi six character mark).
- 5 Where no date, reign or mark is mentioned, the lot is, in our opinion, of uncertain date or 19th century or 20th century manufacture.

## EUROPEAN CERAMICS

- 1 A piece catalogued with the name of a factory, place or region without further qualification was, in our

opinion, made in that factory, place or region (eg, a Spode plate).

- 2 "A plate in the Sevres style" is, in our opinion, a copy or imitation of pieces made in the named factory, place or region.
- 3 "A Sevres-pattern plate" is, in our opinion, not made in the factory, place or region named but near in the style or period to pieces made therein.
- 4 "A Spode cup and saucer", in our opinion both pieces were made at the factory named and match.
- 5 "A Spode cup and a saucer", in our opinion both pieces were made at the factory named but do not necessarily match.
- 6 "Modelled by", in our opinion made from the original master mould made by that modeller and under his/her supervision.
- 7 "After the model by", in our opinion made not from the original master mould but from a later mould based on the original, not made by the original model maker.
- 8 "Painted by..." in our opinion can properly be attributed to that decorator on stylistic grounds.

# CONDITIONS OF BUSINESS

The conditions set out below and all other terms, conditions and notices set out in Shapiro Auctioneers' website, catalogues or announced by the auctioneer or posted in the sale room by way of notice (together 'the Conditions of Business') form the terms on which Shapiro Auctioneers contracts, as auctioneer, with actual and prospective buyers. They also apply to a sale by private treaty.

Shapiro Auctioneers generally acts as agent for the seller. Any concluded contract of sale is made directly between the seller and the buyer, and are subject to these Conditions of Business.

Shapiro Auctioneers is dependant on the seller for much of the relevant factual material pertaining to items offered for sale. Shapiro Auctioneers cannot and does not undertake full due diligence on every item sold. Buyers therefore have a responsibility to carry out their own inspection and investigations to satisfy themselves as to the nature of the items which they are interested in buying.

Actual and prospective buyers are bound by all Conditions of Business. Where possible in these Conditions of Business, Shapiro Auctioneers is referred to as 'we', 'us' and 'our' and actual and prospective buyers are, as applicable, referred to as 'you' and 'your'.

## 1. DEFINITIONS:

In these Conditions of Business, the following terms shall have the meaning set out below:

- (a) 'Buyer' means the person who makes the highest bid accepted by the auctioneer, or that person's disclosed principal;
- (b) 'Buyer's Premium' means the commission on the Hammer Price payable to Shapiro Auctioneers by a

Buyer at the rates posted in the auction room at the time of the relevant sale or as stated in catalogues;

- (c) 'Expenses' in relation to the sale or attempted sale of any Lot means Shapiro Auctioneers' charges and expenses including but not limited to legal expenses, charges and expenses for insurance, catalogue and other reproductions and illustrations, any customs duties, advertising, storage, packing or shipping costs, reproduction rights' fees, taxes (including GST), levies, costs of testing, searches or enquiries relating to any Lot, administration charges, credit card expenses and costs of collection from a defaulting Buyer,
- (d) 'GST' means a tax payable under the GST Act;
- (e) 'GST Act' means A New Tax System (Goods and services) Act 1999 as amended;
- (f) 'Hammer Price' means the price at which a Lot is knocked down by the auctioneer to the Buyer or, in the case of a post-auction sale, the agreed price; in both instances excluding the Buyer's Premium, any applicable taxes and Expenses;
- (g) "Lot" means an item or items offered for sale;
- (h) 'Net Sale Proceeds' means the Hammer Price of the Lot sold to the extent received by Shapiro Auctioneers in cleared funds, less Seller's Commission and Expenses;
- (i) 'Shapiro Auctioneers' means Australian Auctioneers Pty. Ltd. (ABN 58 098 454 301)
- (j) 'Shapiro Auctioneers Affiliated Company' means any related company to Shapiro Auctioneers within the meaning of Section 50 of the Corporations Law;
- (k) 'Seller' means the owner or the owner's agent or the person in possession of the property consigned;
- (l) 'Seller's Commission' means the commission payable to Shapiro Auctioneers by a Seller at the rates applicable at the date of sale of the property or at the date of loss or damage to the property if applicable. The applicable Seller's Commission rates are those set out in the Shapiro Auctioneers seller's commission rate cards which are available at Shapiro Auctioneers' offices at 162 Queen Street, Woollahra, New South Wales, 2025 and at 845 High Street Armadale Victoria 3143 and the terms of which are incorporated in these Conditions of Business;
- (m) 'Tax Invoice' means a tax invoice as defined in the GST Act;
- (n) 'Total Amount Due' means the Hammer Price in respect of the Lot sold, together with the Buyer's Premium, and any charges, fees, interest, taxes (including GST) and applicable Expenses due from a Buyer or defaulting Buyer.

## 2. SHAPIRO AUCTIONEERS AS AGENT:

Shapiro Auctioneers acts as agent for the Seller. Any sale will result in a contract made directly between the Seller and the Buyer and Shapiro Auctioneers is not responsible for any default by the Seller or the Buyer.

## 3. BUYER'S OBLIGATION TO INSPECT:

All goods are sold in their existing condition and state of repair. They may have faults or imperfections. We will not be responsible for errors of description in the catalogue or elsewhere. Illustrations in catalogues are for identification only. You should also note that we have not tested any electrical or mechanical goods prior to the sale (whether in respect of their ability to function, their safety of operation or otherwise) and you are solely responsible for testing such goods before using them.

Accordingly, as regards any Lot in which you are interested, you undertake:

- (i) to inspect and satisfy yourself prior to the sale as to the condition and description of the Lot;
- (ii) to rely on your own judgment as to whether the Lot accords with its description;
- (iii) to seek any independent expert advice reasonable (in the light of your particular expertise and the value of the Lot) to satisfy yourself as to authorship, attribution, authenticity, genuineness, origin, date, age, provenance or condition of the Lot; and
- (iv) not to rely on any illustration in any catalogue.

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

## 4. SHAPIRO AUCTIONEERS LIABILITY TO BUYERS - EXCLUSION OF LIABILITY:

- 4.1 Shapiro Auctioneers gives no guarantees or warranties to the Buyer and any implied warranties or conditions are excluded (save in so far as such obligations cannot be excluded by statute).
- 4.2 Any representations, written or oral and including those in any catalogue, report, commentary or valuation, in relation to any aspect or quality of any Lot, including price or value, (a) are statements of opinion only and (b) may be revised prior to the Lot being offered for sale (including whilst the Lot is on public view). None of Shapiro Auctioneers, any Shapiro Auctioneers Affiliated Company, or any agent, employee or director thereof shall be liable for any errors or omissions in any such representations.
- 4.3 If Shapiro Auctioneers is found to be liable to the Buyer the claim shall be limited to the Hammer Price and the Buyer's Premium actually paid by the Buyer to Shapiro Auctioneers with regard to that Lot.
- 4.4 We shall be under no liability for any injury, damage or loss sustained by any person while on our premises, including any premises where a sale or auction is conducted or Lots are held except for death or personal injury directly caused solely by the negligence of Shapiro Auctioneers.
- 4.5 If within three months after the sale of a Lot a Buyer satisfies us by providing a written opinion of an

expert valuer acceptable to us that a Lot purchased at a sale is a deliberate imitation created after 1900 with the intention of deceiving as to authorship, origin, date, age, period, culture or source (where the correct description of such matters is not reflected by the description in the catalogue) and which, at the date of sale, had a value materially less than it would have if the item had been in accordance with the description in the catalogue then we shall set aside the sale and refund to you any amount paid by you to us in connection with the Lot in the currency of the original sale PROVIDED THAT: (a) you transfer good title in the Lot to us free from any third party claim arising after the date of the sale to you; and (b) you return the Lot to us in the same condition as at the date of sale. FURTHER PROVIDED THAT: (c) no refund will be available if either:

- (i) the catalogue description at the date of the sale was in accordance with the generally accepted opinions of scholars and experts at that time or the catalogue description indicated that there was a conflict of such opinions; or (ii) the only method of establishing that the Lot was a counterfeit at the date of publication of the catalogue was by means of processes which either were not generally accepted for use until after the publication of the catalogue or else were unreasonably expensive or impractical or likely to have caused damage to the Lot or likely, in our reasonable opinion, to have caused loss of value to the Lot.

No sale of a Lot shall be set aside by reason only of any damage and/or restoration and/or modification work of any kind (including repainting or overpainting). The benefit of this clause is not capable of being transferred and is solely for the benefit of the actual Buyer.

## 5. SELLER'S WARRANTIES TO BUYERS:

The Seller warrants to the Buyer that at all relevant times (including but not limited to the time of the consignment of the property and the time of the sale):

- (a) the Seller is the true owner of the property, or is properly authorised to sell the property by the true owner;
- (b) the Seller is able to and shall, in accordance with these Conditions of Business, transfer to the Buyer possession and good and marketable title to the property free from any third party rights or claims or potential claims including, without limitation, any claims which may be made by governments or governmental agencies;
- (c) the Seller has notified us in writing of any material alteration or restoration to the Lot of which the Seller is aware;
- (d) the Seller is not aware of any concerns expressed by third parties in relation to the ownership, condition, authenticity, attribution, or export or import of the Lot unless otherwise disclosed;
- (e) the Seller is unaware of any matter or allegation which would render any description given by us in relation to the Lot inaccurate or misleading;



- (f) where the property has been imported into Australia, the property has been lawfully imported into Australia and has been lawfully and permanently exported as required by the laws of any country in which it was located; required declarations upon the export and import of the property have been properly made and any duties and taxes on the export and import of the property have been paid;
- (g) the Seller has or will pay any and all taxes and/or duties that may be due on the Net Sale Proceeds of the property and the Seller has notified us in writing of any or all taxes and for duties that are payable by us on your behalf in any country other than the country of the sale.

Any other express or implied conditions or warranties are excluded save insofar as it is not possible to exclude obligations implied by statute.

#### **6. BIDDING:**

- 6.1 If you make a bid at auction, you do so as principal and will be held personally and solely liable for that bid, unless we have previously agreed with you in writing that you do so on behalf of an identified third party who is acceptable to us. In circumstances where we have so agreed, both you and the third party will be jointly and severally liable for all obligations arising from the bid and the third party shall be bound by the Conditions of Business by your bidding as his agent in the same way as if he were bidding personally.
- 6.2 We will seek to carry out any instructions to bid at an auction on your behalf which we receive from you sufficiently in advance of the sale and which we consider, in our discretion, to be sufficiently clear and complete. If we receive commission bids on a particular Lot for identical amounts, and at auction these bids are the highest bids for the Lot, it will be sold to the person whose bid was received first by us. We will not advise any such bidder of the existence of a higher bid. However, our obligation in relation to commission bids is undertaken subject to our other commitments at the time of sale and the conduct of the sale which may be such that we are unable to bid as requested. We cannot accept liability for failure to make a commission bid for any reason. You should therefore attend personally or send an agent to the auction if you wish to be certain of bidding.
- 6.3 We may be prepared to allow you to bid by telephone but, in such circumstances, we reserve the right to require you to confirm relevant details in writing before we agree to do so. We are not responsible for the failure of any telephone bid for any reason. We reserve the right to record telephone bids.

#### **7. CONDUCT OF THE AUCTION:**

- 7.1 All Lots may be sold subject to a reserve, which is the minimum amount that will be accepted for the Lot. A reserve may change at any time prior to the fall of the hammer. A reserve may be

above a published estimate. The auctioneer will commence and advance the bidding in levels that he considers appropriate in the light of the value of the Lot under auction and of competing bids. The auctioneer is entitled to make consecutive bids or make bids in response to other bids on behalf of the Seller up to the reserve placed on the Lot, although at no time shall the auctioneer indicate during the conduct of the auction that he is making such bids on behalf of the Seller. The Buyer acknowledges the rights of the auctioneer and the Seller set out in this Condition and waives any claim that he might have in this connection against Shapiro Auctioneers or the Seller.

7.2 We and the auctioneer have absolute discretion at any time before or during the course of the auction to:

- (i) withdraw any Lot from sale;
- (ii) re-offer a Lot for sale if the auctioneer reasonably believes that there is an error or dispute;
- (iii) take such other action as he reasonably thinks fit in the circumstances; and/or
- (iv) divide a Lot or combine 2 or more Lots.

7.3 We may, at our absolute discretion, refuse to allow any person to participate in our auctions, or to participate subject to conditions (such as leaving a deposit) and we may refuse admission to our premises to any person.

7.4 If we so request, the Buyer, and any bidder at auction agrees to provide (in a form acceptable to us) written confirmation of their name, permanent address, proof of identity and creditworthiness.

#### **8. SALE OF A LOT:**

The person who makes the highest bid accepted by the auctioneer (or that person's disclosed principal, if applicable) shall be the Buyer. The striking of the auctioneer's hammer marks the acceptance of the highest bid and identifies the Hammer Price at which the Lot is knocked down by the auctioneer to the Buyer. The striking of the auctioneer's hammer also marks the conclusion of a contract of sale between the Seller and the Buyer.

#### **9. VIDEO IMAGES:**

At some auctions, there may be a video screen in operation for the convenience of both Buyers and Sellers. Errors may occur in the operation of the video screen. We are not responsible either for the quality of the image reproduced on the video screen, or for the correspondence of the screen image to the original.

#### **10. FOREIGN CURRENCY:**

Auctions are conducted in Australian dollars. Any indication of foreign currency conversion given at any time, including by currency converter, is for convenience only, and we will not be responsible for accuracy. Errors may occur in the currency converter and you should not rely on it as a substitute for the Australian dollar bidding. Foreign currency exchange rates are always fluctuating and it is your responsibility to satisfy yourself as to foreign currency calculations.

#### **11. PAYMENT:**

11.1 Immediately after the conclusion of the relevant session of the auction in which the Lot was sold, you shall pay us, in Australian dollars, the Total Amount Due. Payment will not be deemed to have been made until we are in receipt of cash or cleared funds.

11.2 Any monies received from you may be applied in order of the oldest debt owed by you to Shapiro Auctioneers.

11.3 If the Total Amount Due is not paid in full on any Lot in accordance with Clause 11.1, we may, in our discretion and without prejudice to any other rights which we and the Seller may have, both for ourselves and as agent for the Seller, exercise any one or more of the following rights or remedies:

- (a) commence proceedings against you for damages for breach of contract;
- (b) cancel the sale of the Lot;
- (c) apply any payments made by you to us or any Shapiro Auctioneers Affiliated Company as part of the Total Amount Due or otherwise towards any costs or Expenses incurred in connection with the sale of the Lot;
- (d) arrange and carry out a re-sale of the Lot by public auction or private sale in mitigation of the debt owed by you to us. You and the Seller consent to and authorise us to arrange and carry out such re-sale on the Conditions of Business applicable at the time of such re-sale and agree that the level of the reserve and the estimates relevant to such re-sale shall be set at our sole discretion. The Net Sale Proceeds will be applied in reduction of your debt. If a re-sale should result in a lower price than the original Hammer Price obtained, we and the Seller shall be entitled to claim the balance from you together with any costs incurred in connection with your failure to make payment. If the re-sale should result in a higher price than the original Hammer Price obtained, the surplus shall be paid to the Seller. In such case, you waive any claim which you may have to title to the Lot and agree that any resale price shall be deemed commercially reasonable;
- (e) set off any amounts owed by us or any Shapiro Auctioneers Affiliated Company to you against any amounts which you owe to us or any Shapiro Auctioneers Affiliated Company, whether as the result of any proceeds of sale or otherwise;
- (f) exercise a lien over any of your property which is in our possession or in possession of any Shapiro Auctioneers Affiliated Company for any reason until payment of all outstanding amounts due to us have been made in full. We shall notify you of any lien being exercised and the amount outstanding. If the amount outstanding then remains unpaid for fourteen days following such notice, we shall be entitled to arrange and carry out the sale of any such property in accordance with (d) above;

- (g) charge you the Seller's and our reasonable legal and administrative costs incurred;
- (h) charge you interest at a rate not exceeding four per cent (4%) per annum above the base lending rate quoted by Westpac Banking Corporation from time to time on the Total Amount Due to the extent that it remains unpaid for more than two (2) working days after the date of the auction; this interest will be invoiced monthly and compounded if unpaid;
- (i) insure, remove and store the Lot either at our premises or elsewhere at your sole risk and expense.

## 12. COLLECTION OF PURCHASES:

12.1 You shall collect the purchased Lot, at your expense, no later than two (2) working days after the day of the sale. Normally, the Lot shall not be released to you before receipt by us of the Total Amount Due in cleared funds. However, if it is released before such payment is received it is without prejudice to our rights in these Conditions of Business and title shall not pass.

12.2 In addition to our rights under clause 11.3 if you do not collect a purchased lot within two (2) working days after the sale, we may arrange storage of the Lot at your risk and expense. This shall apply whether or not you have made payment of the Total Amount Due. We shall release the purchased Lot only after you have made payment in full of all storage, removal, insurance and any other costs incurred, together with payment of all other amounts due to us including, if applicable, the Total Amount Due. If the Lot is not collected within 6 months of the sale, then we may sell the Lot and clause 11.3(d) shall apply as far as applicable and we may withhold from the funds received the Total Amount Due, the Buyers Premium and all storage, removal, insurance and any other costs or taxes incurred.

## 13. PASSING OF TITLE AND RISK:

13.1 You shall not acquire title to the Lot sold until you have made payment in full of the Total Amount Due in respect of that Lot and Shapiro Auctioneers has applied such payment to the Lot.

13.2 Notwithstanding when title passes, any Lot purchased is at your risk from the earlier of:

- (i) the time you collect the Lot purchased; or
- (ii) the time that you pay to us the Total Amount Due for the Lot; or
- (iii) one (1) working day after the day of the sale.

You are responsible for insuring the Lot purchased from the time risk passes to you. You will be compensated for any loss or damage to the Lot which occurs after sale but prior to the time risk passes to you. The maximum amount of compensation shall be the Hammer Price of the Lot, plus Buyer's Premium received by Shapiro Auctioneers, and shall exclude any indirect or consequential loss or damage. However, we will not, in any circumstances, be liable for any loss or damage caused to frames or to glass

which is covering prints, paintings or other works unless the frame or glass is, in itself, the object sold at auction.

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

## 14. PROCEEDS OF ON-SALE:

If you onsell the Lot or any part of the Lot before making payment in full to us of the Total Amount Due, you agree to:

(i) hold on trust for us the proceeds of that sale to the extent that they are equal to the Total Amount Due less any amounts from time to time paid to us applied to that Lot; and (ii) keep the amount that you hold on trust for Shapiro Auctioneers in respect of any Lot in a separate bank account.

## 15. EXPORT:

The export of any Lot from Australia or import into any other country may be subject to one or more export or import licences being granted and may require an export or import manifest, list or documentation. No representations or warranties are made by Shapiro Auctioneers or the Seller as to whether any Lot is subject to any export restrictions from Australia or any import restrictions of any other country. Similarly, we make no representations or warranties as to whether any embargoes exist in relation to particular Lots. It is the Buyer's responsibility to obtain any relevant export or import licence and to complete any required export or import manifest, list or documentation. Lots purchased shall be paid for in accordance with Clause 11 and the denial of any export or import licence required or any delay in the obtaining of such licence shall not justify the rescission or cancellation of the sale by you or any delay by you in making payment of the Total Amount Due for the Lot. We are not responsible for any liability arising from any failure to complete or submit the required export or import manifest, list or documentation.

## 16. GST:

When the Seller tells us that the supply of goods sold will be subject to GST we will tell the Buyer. The amount the Buyer must pay under these Conditions of Business is to be increased so that we will receive an amount (the GST inclusive amount) which after subtracting the relevant amount of GST payable will leave as the resulting amount an amount which is the same as the GST exclusive amount. GST is payable by the Buyer on all taxable supplies including Buyers Premium and Expenses. We will give you a Tax Invoice for that sale.

## 17. GOVERNING LAW:

These Conditions of Business and any amendment to them shall be governed by and interpreted and construed in accordance with the law of the state of Australia in which the sale takes place. All parties agree that the courts of such state shall have exclusive jurisdiction to resolve disputes (including claims for set-off and counterclaims) arising under these Conditions of Business or as a result of the sale PROVIDED THAT Shapiro Auctioneers shall retain the right to bring proceedings in any other court of competent jurisdiction.

## 18. PHOTOGRAPHS AND ILLUSTRATIONS:

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

## 19. COPYRIGHT:

No representations or warranties are made by either the Seller or Shapiro Auctioneers as to whether any Lot is subject to copyright, nor as to whether the Buyer acquires any copyright in any Lot sold.

## 20. NOTICES:

Any notice or other communication shall be in writing and, if sent by post, shall be deemed to have been received by the addressee on the second working day after posting or, if the addressee is outside Australia, on the fifth working day after posting. If any written notice is delivered by hand, it shall be treated as having been received at that time and, if any written notice is sent by facsimile, it shall be deemed to have been received one working day after sending if the sender's machine indicates that the transmission was satisfactorily received. Any notice sent to us shall be sent to 162 Queen Street, Woollahra, New South Wales, 2025. Any notice which we send to you may be sent to your last address known to us.

## 21. MISCELLANEOUS:

- (i) The headings and introduction to these Conditions of Business do not form part of the Conditions of Business, but are for your convenience only.
- (ii) No act, failure to act or partial act by Shapiro Auctioneers shall be deemed a waiver of any of its rights hereunder
- (iii) The singular includes the plural and vice versa where the context requires.
- (iv) These Conditions of Business shall not be assignable by the Buyer or the Seller without the prior written agreement of Shapiro Auctioneers. However, these Conditions of Business shall be binding on any of your successors, assigns, trustees, executors, administrators and representatives.
- (v) If any provisions of these Conditions of Business should be held unenforceable for any reason, the remaining conditions shall remain in full force and effect.
- (vi) Where there is more than one Buyer or seller of a single Lot, these Conditions of Business shall bind all of them jointly and each of them severally them.