



# VICKERS & HOAD

ANTIQUÉ AND FINE ART AUCTIONEERS

## General

In these terms and conditions Vickers & Hoad Pty Ltd of 4/87 Kirkham Road, Bowral NSW 2576 ABN 54 126 302 476 is referred to as "Vickers & Hoad", where there is a mention of the auctioneer, the auctioneer is deemed to be an employee of Vickers & Hoad, the person, persons or corporation bidding at an auction is, or are referred to as the "buyer" and where the word "auction" is mentioned that is an auction conducted by Vickers & Hoad. The owner of the goods being sold and consigned to Vickers & Hoad for that purpose is referred to here as the "seller".

## Agreeing to the Terms and Conditions

- 1 Any buyer attending an auction agrees to be bound by the terms and conditions set out here.
- 2 Before a buyer bids at an auction, the buyer must be registered by providing to Vickers & Hoad, the following
  - 2.1 A photo identification showing a facial photography of the proposed buyer and particulars of the residential address of that buyer. Where the buyer for religious or ethical reasons refuses to provide facial photograph to Vickers & Hoad verifying his or her identity, Vickers & Hoad will require further verification of identity before allowing the potential buyer to bid.
  - 2.2 Vickers & Hoad may request further particulars of the potential buyer at the time of registration, without being required to give a reason.
  - 2.3 Should the buyer fail and/or refuse to provide those further particulars, then Vickers & Hoad may refuse to register the buyer to bid at an auction.
  - 2.4 If for any reason Vickers & Hoad is dissatisfied with the information and/or documents provided by a potential buyer, identifying that buyer and the buyer's residential address, Vickers & Hoad may refuse to register the buyer to bid at an auction.
- 3 The buyer acknowledges and agrees that prior to the auction taking place, the buyer has inspected the goods which are catalogued in the auction, and which are to be sold, during the course of the auction (the "goods").
- 4 The description of the goods as set out in any catalogue, published by Vickers & Hoad in any form or format, is simply meant as a guide as to the description of the goods, their provenance, source, the integrity of the source and/or the integrity of the goods, and hence should not be relied upon, by a buyer.
- 5 If the buyer intends to bid for goods, that because of their potential provenance, source, description or nature, assert certain characteristics which impact positively upon the price that the buyer will pay for those goods, then the buyer must obtain independently of Vickers & Hoad expert advice, such that the buyer is satisfied that prior to bidding at the auction the buyer is purchasing what it is that the buyer believes the goods to be at the time of the auction. In this regard Vickers & Hoad and the seller of the goods, give no guarantee or warranty that the goods are of the description set out in the catalogue or of any description made by the auctioneer at any time during the currency of the auction. It is the obligation of the buyer to undertake any and all due diligence that the buyer requires, in order to satisfy the buyer as to the veracity or otherwise of the provenance, source of the goods, the characteristic, age, condition and quality of the goods, prior to bidding at the auction.

## Telephone Buyers

- 6 Buyers may provide to Vickers & Hoad, prior to the commencement of an auction, a telephone bid form, whereby the buyer indicates to Vickers & Hoad the buyer's interest in certain goods catalogued in a certain auction (the "telephone bid") and a wish by the buyer to make a telephone bid or bids for certain goods at that auction.
- 7 Vickers & Hoad is under no obligation to telephone the potential telephone buyer in relation to any bid registered by a telephone buyer, on a form provided to Vickers & Hoad prior to the auction, however will undertake its best endeavours to identify that the buyer has registered the buyer's interest in bidding for a particular good or goods, by the provision of a telephone bid form.
- 8 Vickers & Hoad will, where Vickers & Hoad acknowledges the acceptance of a telephone bid by a buyer, bid for and on behalf of the buyer as the buyer instructs over the telephone. However the buyer agrees and acknowledges that Vickers & Hoad is under no obligation to make a bid for an on behalf of a telephone buyer,



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and that if a bid is made by Vickers & Hoad, the bid is made in good grace having regard to the understanding of the officer of Vickers & Hoad as to the bid wished to be made by the telephone buyer, via the Vickers & Hoad officer. The buyer will not make any claim, claim for compensation, nor claim for damages in relation to any telephone bid made by an officer of Vickers & Hoad for and on behalf of that telephone buyer, and whatever offer or bid is made by the officer of Vickers & Hoad for and on behalf of a buyer, at or during the auction will be deemed to be made by the buyer.

- 9 Where a telephone buyer intends to bid upon goods at a decorative arts sale or directors' auction, the buyer may be required to pay a deposit of 25% of the highest amount set out in the estimate particularised in the catalogue in relation to those goods for which the buyer wishes to bid prior to the auction taking place (the "deposit"). Should a deposit be required, the buyer must deposit into the account of Vickers & Hoad by electronic transfer or provide to Vickers & Hoad a bank cheque for 25% of that estimate prior to bidding for the good at auction.
- 10 Telephone bid forms must be with Vickers & Hoad before the commencement of the auction in which the goods to be bid upon form point, otherwise it is in the absolute discretion of Vickers & Hoad as to whether it accepts the bid form.

## Bidding at Auction

- 11 During the auction, all decisions in relation to any dispute arising in respect of any sale of any goods in that auction, or in respect of any matter, manner or thing, directly or indirectly related to a bid, the manner in which a bid is made, the manner in which a bid is accepted, any dispute in relation to whom has made a bid, or the amount of that bid, or the person, persons and/or entity to whom or which the hammer is dropped, the auctioneer is the final arbiter, and any decision so made by the auctioneer during the auction in relation to any matter, manner or thing either directly or indirectly related to the operation management, administration, taking of bids, giving of bids, falling of the hammer and the like, shall be that of the auctioneer.
- 12 Normally, the highest buyer shall be the buyer of any goods at an auction.
- 13 Bids made at the auction shall be regulated in their advances by the auctioneer and normally will be at least 10% in advance of the previous bid.
- 14 No buyer may retract a bid once the bid has been acknowledged by the auctioneer, which acknowledgement shall be an acknowledgment in any form made by the auctioneer at the time the bid is made.
- 15 The buyer must be a registered buyer before making any bid and no bid shall be accepted from any unregistered buyer.
- 16 Upon the fall of the hammer in favour of a buyer that buyer is responsible for payment and collection of the goods, which are the subject of that fall of the hammer.

## Internet Buyers

- 17 Buyers may bid on the internet through the Vickers & Hoad website. Vickers & Hoad shall not be responsible for any failure in relation to any equipment, program or link, or any reason whatsoever whereby an internet bid fails to come to the notice of an officer of Vickers & Hoad, and the bid is not then conveyed to the auctioneer. Vickers & Hoad shall not be responsible to an internet buyer in relation to any bid made by an internet buyer, where for any reason Vickers & Hoad is unaware of the internet bid at the time the auction is taking place, or at all. The buyer shall not have any claim, claim for compensation or claim for damages if for any reason Vickers & Hoad does not notice or does not bid for an internet buyer.
- 18 An internet buyer is to pay an additional 5% buyer's commission on any goods purchased by a buyer by way of an internet bid over and above the buyer's commission stated in the Vickers & Hoad catalogue on the day of the auction.

## Collection of Goods

- 19 Buyers may collect goods during the auction after paying for same, but only at the discretion of the auctioneer.



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- 20 Internet buyers may only pay for and collect goods after the auction where those goods have been sold, has been completed, in that the last lot in the auction has been auctioned.

### Withdrawal of Goods from Auction

- 21 The seller of goods at auction may withdraw any goods from that auction up to the time when invitations are made by the auctioneer for bids in relation those goods. Once the auctioneer requests bids in relation to a lot of which the goods form part, the seller may not withdraw the lot from sale.
- 22 A buyer may not make claim, claim for compensation or claim for damages if goods appearing in a catalogue are withdrawn in accordance with paragraph 21.

### Agent Bids

- 23 The registered buyer is deemed to be the principal buyer. Any bidder who is acting as an agent for a buyer must, prior to the auction, provide written authority from the actual buyer, that the agent may so act on behalf of that buyer to bid at the auction and the principal must provide photo ID and register as a buyer, providing to Vickers & Hoad such information it requires of the principal.

### Vickers & Hoad Buyers Warranties and Obligations

- 24 Vickers & Hoad provides no warranty or guarantee, either express or implied, that any goods are free of all patent or latent faults or defects. The buyer acknowledges and agrees that the buyer has taken the opportunity to inspect the goods and to undertake any due diligence in relation to those goods, by having the goods tested, the veracity of the provenance and source of the goods established by an expert or experts and obtaining any report or reports that the buyer requires in relation to those goods. The buyer hereby indemnifies and holds safe Vickers & Hoad in relation to any matter, manner or thing, either directly or indirectly related to the goods the subject of the sale, which have been purchased by the buyer and accepts the goods as are, where are, and will claim no compensation, damages, nor make any claim against Vickers & Hoad in relation to any fault, either patent or latent in the goods, shortages in quantity mis-description of provenance, source quality or any other matter, manner or thing related in any way to the goods, directly or indirectly.

### Payment of Goods

- 25 The buyer agrees that the buyer will pay by cash, EFT, bank transfer, cheque by prior agreement with photo identification provided when presenting the cheque, subject to the photo identification showing the date and place of birth of the buyer, and the residential address of the buyer upon the photo identification, credit card, VISA, MasterCard and the like, however Vickers & Hoad do not accept payment by American Express or Diners Club card.
- 26 When a credit card transaction is provided, other than a cash sale by credit card, there will be a surcharge added to the amount charged to the buyer in relation to the sale and purchase of goods. The credit card surcharge is dependent on the credit card used. Credit card surcharges are as follows: VISA: 1.47% & MasterCard: 1.35%

### Vickers & Hoad Commission

- 27 The buyer will pay to Vickers & Hoad a buyer's commission, which commission will be calculated upon the gross action sale price of the goods sold in respect of any lot, at the rate of 24% plus GST. The commission shall be paid at the same time as the gross auction sale price for the goods, the subject of the lot is paid by the buyer to Vickers & Hoad.
- 28 Where the buyer's commission is to be varied, that variation must appear in the sale catalogue or if by agreement between the buyer and Vickers & Hoad in writing signed by Vickers & Hoad before the commencement of the auction.



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## Collection of Purchase/s

- 29 All goods the subject of a purchase by a buyer shall be paid for and removed from the Vickers & Hoad auction rooms, or the place where the auction has taken place, within three (3) business days of the date of the sale, or at the time specified by the auctioneer at the beginning of the sale, where that is different to the three (3) business days.
- 30 Should the goods, the subject of the lot not be collected and paid for by the buyer within three (3) business days of the falling of the hammer of the last lot in the auction, in which that lot and the goods were part, then Vickers & Hoad may charge the buyer interest upon the gross auction price and buyer's commission in respect of the sale of those goods at the rate of 1% per month based on the amount owed on the first business day of each month over which the goods are not paid for. Further, Vickers & Hoad may commence to charge storage in relation to the goods at the rate of \$50 per day, per cubic metre, or part cubic metre of storage space in which the goods are stored, the interest and accumulation of storage fees shall commence on the fourth (4th) business day after completion of the auction.
- 31 Buyers are responsible for the collection of the goods of the lot that the buyer has purchased, and the cost of any craneage, forklift, lifting device or carrying device for the goods, and neither Vickers & Hoad nor the seller have any obligation to the buyer, other than to present the goods as the goods were situated during the course of the auction at which the goods were sold. Accordingly, in respect of any goods whereby any lifting device, craneage or carriage equipment is required to remove those goods from the place where the auction took place, then the provision of that equipment, plant, or lifting facility shall be arranged and paid for by the buyer.
- 32 Normally, Vickers & Hoad is under no responsibility or obligation to a buyer to resell goods where the buyer does not wish to accept same after being the successful buyer. Vickers & Hoad may at its absolute discretion, refuse to resell such goods on behalf of the buyer at a subsequent auction of Vickers & Hoad. Unless otherwise agreed in writing the buyer must pay for and remove the goods of any lot from the premises within three (3) business days after the fall of the hammer of the last lot in which the lot purchased by the buyer formed part.

## Seller of the Goods

- 33 The buyer agrees and acknowledges that in relation to the lot and the goods the subject of the sale and/or auction, Vickers & Hoad is simply an agent acting for and on behalf of the seller of those goods and that the contractual arrangement in relation to the purchase of those goods is as between the buyer and the seller of the goods, and that Vickers & Hoad has no part in this process, except as to act as the authorised and exclusive agent of the seller.

## Return of Goods

- 34 Where a buyer contends and/or asserts that buyer has the right at law or otherwise to return goods the subject of a lot at any auction, the buyer must within five (5) business days of the fall of the hammer for the last lot at the auction of which the goods formed part of a lot, advise Vickers & Hoad in writing, as follows...
- 34.1 that the buyer believes that the buyer is not required to accept the goods in the lot;
- 34.2 the reasons why the buyer contends that the buyer is not required to accept the goods in the lot;
- 34.3 what it is that the buyer wishes Vickers & Hoad to do about the goods, the subject of the lot; and
- 34.4 a description of all the issues that the buyer has in relation to the goods the subject of the lot, whereby the buyer considers that the buyer has the right to return such goods to Vickers & Hoad (the "rejection notice").
- 35 Vickers & Hoad will advise the buyer in writing within five (5) business days of receipt of the rejection notice as to whether the seller will accept the goods by return, or if the seller will not, the reasons why the seller will not accept the return of the goods and will do so in writing.
- 36 Where the seller agrees to accept goods by return, the goods must be in the same condition as they were when they left the auction room of Vickers & Hoad after the auction of which they were a part and returned to the head office address of Vickers & Hoad by the buyer at the cost of the buyer.



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- 37 Upon receipt of the goods in the same condition as that when sold, Vickers & Hoad will return to the buyer the gross auction price and the buyer's commission and will do so within five (5) business days of the receipt of the goods.

## Title of goods

- 38 Title in the goods, the subject of the sale, shall not pass to the buyer unless and until the payment by the buyer is cleared funds into the account of Vickers & Hoad. Should the buyer pay Vickers & Hoad by cheque or in a manner by which the payment is not honoured, then upon dishonour of that payment, Vickers & Hoad shall on behalf of seller and itself be at liberty to make claim against the buyer for the costs relevant to the purchase of those goods, including the demand for payment of the gross auction sale price of the goods, any costs relevant to the goods, the buyer's commission, any legal or collection costs relevant to the funds that should have been paid to Vickers & Hoad buy the buyer, interest and storage fees.
- 39 Where the buyer does not make payment for the goods and does not collect such goods, Vickers & Hoad reserves the right at the absolute discretion of Vickers & Hoad to re-sell the goods at a subsequent auction and make claim against the buyer for any deficiency in and costs related to the original sale of the goods to the buyer and the subsequent sale of the goods to another buyer, advertising, insurance, transport costs, storage and loss of commission.
- 40 Before reselling the goods at a subsequent auction, Vickers & Hoad will send a notice of its intention to do so by prepaid ordinary post or email to the address or addresses provided by the buyer to Vickers & Hoad.

## Changing the agreement

- 41 The terms and conditions of this agreement may not be varied by either party except in writing signed by both parties.

## GST

- 42 Where the catalogue in respect of a lot and/or goods purchased by a buyer shows that the sale of that lot or those goods attracts GST, then upon providing the gross auction sale price of the goods, the buyer will also provide GST in relation to that purchase upon being provided by Vickers & Hoad with a tax invoice evidencing the amount of GST payable.