

**LAWSON MENZIES PTY LIMITED**  
**Terms and Conditions of Agency Agreement**

LAWSON MENZIES PTY LIMITED ACN:097 588 899 (Lawson~Menzies) accepts and holds the goods mentioned in this Agency Agreement for submission to sale by auction under their usual terms and conditions of auction sale, a copy of which is available for inspection, or by private treaty as Agent for the Vendor and subject to the following terms and conditions:

**1. Vendor's Authorisation.** The Vendor authorises Lawson~Menzies to:

- a) sell the goods by auction subject to Lawson~Menzies usual conditions of auction sale or by private treaty in accordance with these terms and conditions;
- b) receive the Purchase Price and to give a good receipt;
- c) collect GST on behalf of the Vendor where applicable;
- d) to sign the agreement for sale or like document, if any;
- e) to sell to the highest bidder subject to any Reserve Price as agreed in writing.

**2. Warranty and Indemnity by Vendor**

- a) The Vendor warrants to Lawson~Menzies and to the Buyer that he is and will be able to transfer good and marketable title to the goods free from all liens and encumbrances;
- b) The Vendor shall indemnify Lawson~Menzies and the Buyer against all claims made or proceedings brought by persons entitled or purporting to be entitled to the goods and shall reimburse Lawson~Menzies on demand for all payments, costs, expenses or any other loss or damage whatsoever made, incurred or suffered as a result of any breach by the Vendor of (a) above.
- c) The Vendor will notify Lawson~Menzies in writing of any change of his/her address within 7 days of its occurrence.

**3. Reserve Prices**

- a) All goods are received by Lawson~Menzies for sale without reserve to be sold at the auctioneer's discretion.
- b) Lots may be auctioned subject to a Reserve Price as agreed in writing between Lawson~Menzies and the Vendor and, once a Reserve Price has been agreed, it may be changed only with the consent of Lawson~Menzies.
- c) The Vendor shall not bid for his Lot nor employ any person to bid for him and Lawson~Menzies alone shall have the right to bid on behalf of the Vendor.
- d) In the event of the Reserve Price not being reached at the auction Lawson~Menzies are empowered to sell the Lot after the auction, by auction or by private treaty, for not less than the Reserve Price, as long as the Lot remains on Lawson~Menzies premises. In the event of such a sale by private treaty the conditions of sale applicable to a Vendor selling by auction will apply.

**4. Auctioneer's Discretion.** Lawson~Menzies shall have absolute discretion as to the following:

- a) whether or not to offer any Lot for sale or to cancel the auction;
- b) whether the Lot is suitable for sale by Lawson~Menzies and if so as to the place and date of sale, the conditions of sale, and the manner in which such sale is conducted;
- c) where and at what times the Lot will be available for inspection;
- d) the method(s) of advertising and promoting the auction;
- e) whether the views of any expert shall be obtained as to the description, authenticity or otherwise of the Lot;
- f) to decide whether an illustration or description of the Lot shall be included in any catalogue, publication or newspaper and if so, the nature of such illustration and description.

**5. Vendors Commission and Expenses**

- a) The Vendor authorises Lawson~Menzies to deduct from the Hammer Price the Vendors Commission together with Expenses and acknowledges that Lawson~Menzies may retain any Buyers Premium payable by the Buyer.
- b) Lawson~Menzies reserves the right not to issue cheques under a minimum amount of \$10.00 or other amount as stated on the Agency Agreement.
- c) If any Lot fails to sell at the auction Lawson~Menzies shall be entitled to charge an offering fee calculated at 5% of the Reserve Price, or other fee as agreed between the Auctioneer and the Vendor.
- d) Goods and Services Tax (GST) is applicable to all fees and charges incurred by Lawson~Menzies, at the prescribed current rate. Unless specified otherwise, GST will be included in all fees and charges.
- e) Where GST applies to the hammer price it will be included in this price and paid to the Vendor with the proceeds of sale. The Vendor acknowledges that it is the responsibility of the Vendor to remit the GST to the appropriate authority.

**6. Charges for Withdrawn Lots.** The Vendor may withdraw a Lot at any time prior to the auction but, once the catalogue including the Lot has been printed, a charge of 10% of the Reserve Price shall become payable or, if there is no Reserve Price, a charge of 10% of Lawson~Menzies estimated auction realisation price. Lawson~Menzies are also entitled to be reimbursed for all Expenses which have been incurred.

**7. Payment of Proceeds of Sale**

- a) Lawson~Menzies shall pay the Proceeds of Sale to the Vendor fourteen (14) days after the date of sale (the due date) provided Lawson~Menzies has by then been paid the Purchase Price in full by the Buyer and Lawson~Menzies has not received any notice from the Buyer claiming that the Lot is a forgery;
- b) If by the due date Lawson~Menzies has not received the Purchase Price in full from the Buyer, then Lawson~Menzies will pay the Proceeds of Sale within ten (10) working days after the date on which the Purchase Price in full is received from the Buyer;
- c) Lawson~Menzies shall not be under any obligation to account to the Vendor for any interest or other benefit it may receive as a result of its receiving and holding the Proceeds of Sale.

**8. Collection of Purchase Price**

- a) If the Buyer fails to pay to Lawson~Menzies the Purchase Price Lawson~Menzies will endeavour to take the Vendor's instructions as to the appropriate course of action to be taken and, so far as in Lawson~Menzies opinion is practicable, will assist the Vendor to recover the Purchase Price from the Buyer but Lawson~Menzies shall not be obliged to institute recovery proceedings against the Buyer in its own name.
- b) Lawson~Menzies reserves the right and is hereby authorised at the Vendor's expense, and in each case at Lawson~Menzies absolute discretion.
  - i) to agree to special terms for payment of the Purchase Price;
  - ii) to remove, store and insure the Lot sold;
  - iii) to settle claims made by or against the Buyer on such terms as Lawson~Menzies shall think fit;
  - iv) to take such steps as are necessary to collect monies due from the Buyer to the Vendor; and
  - v) to set aside the sale and refund money to the Buyer especially in the case of misinterpretation by the Auctioneer or the Vendor.

**9. Rescission of the Sale.** If before the Proceeds of Sale have been paid to the Vendor, Lawson~Menzies receives notice from the Buyer that, in the Buyer's view, the Lot is a Forgery, and Lawson~Menzies agrees with that view, Lawson~Menzies will rescind the sale and refund to the Buyer any amount paid to Lawson~Menzies in respect of the Lot and the Vendor will have no claim of any description against Lawson~Menzies. If Lawson~Menzies rescinds the sale after having paid the proceeds of sale to the Vendor or if there is a dispute as to whether the Lot is a forgery then the Vendor will indemnify Lawson~Menzies for such payment and for all Expenses.

**10. No Liability for Collection or Storage of Goods**

- a) Lawson~Menzies, may, if requested in writing, arrange for the collection and delivery of goods by a contractor on the Vendor's behalf and at his expense. Lawson~Menzies disclaims all responsibility for loss or damage to goods or for unauthorised removal of goods or for damage to premises caused by the contractor.
- b) Lawson~Menzies reserves the right to store or arrange for the storage of goods delivered to them for sale either on their own premises or elsewhere at their sole discretion and reserves the right to make a storage charge for such goods at commercial rates.
- c) Lawson~Menzies exempts themselves from any liability for loss or damage to goods delivered to their premises or elsewhere without sufficient sale instructions.

**11. Insurance**

- a) Unless otherwise instructed in writing all goods on Lawson~Menzies premises (except for motor vehicles) and in their custody will be held insured against the risks of fire, theft following forcible entry and water damage (but not against accidental breakage or damage). The value of the goods so covered shall be the gross amount realised, or in the case of unsold lots the best bid, or in the case of goods withdrawn or otherwise held prior to a sale, Lawson~Menzies estimated auction realisation price;
- b) The sum for which a Lot is covered for insurance under this Condition will not constitute, and shall not be relied upon by the Vendor as, a representation, warranty or guarantee as to the value of the Lot or that it will, if and when sold by Lawson~Menzies, be sold for such amount. Such insurance will subsist until payment is made by the Buyer or, in the case of unsold Lots, until the expiry of seven days after the receipt by the Vendor of notice from Lawson~Menzies requiring the Vendor to collect the Lot;
- c) If the Vendor instructs Lawson~Menzies not to insure the Lot it shall at all times remain at the risk of the Vendor;
- d) Lawson~Menzies does not accept responsibility for Lots damaged by insect infestation or by changes in atmospheric conditions and Lawson~Menzies shall not be liable for such damage nor for any other damage to glass or to picture frames;
- e) If the Lot is damaged or destroyed and Lawson~Menzies insurance company pays compensation to the Vendor then Lawson~Menzies shall be entitled to a Vendors Commission based on the quantum of the compensation paid and calculated in accordance with the Published Rates.

**12. Unsold Lots.** Lots unsold at auction must be collected by the Vendor at his expense within three (3) days after notice from Lawson~Menzies. Upon the expiry of such period Lawson~Menzies shall have the right to either return the Lot to the Vendor or to sell the Lot by auction or private sale and on such terms as it thinks fit and to deduct from the Proceeds of Sale any Expenses owing to Lawson~Menzies including Vendors Commission and Expenses in respect of the prior auction before remitting the balance to the Vendor or, if he cannot be traced, placing it in a bank account in the name of Lawson~Menzies. Lots returned to the Vendor whether at his request or otherwise shall be returned at his risk and expense and will not be insured in transit unless Lawson~Menzies is otherwise instructed by the Vendor.

**13. Rights to Photographs and Illustrations.** The Vendor gives Lawson~Menzies full and absolute right to photograph and illustrate any Lot and to use such photographs and illustrations and any photographs and illustrations provided by the Vendor at any time at its absolute discretion whether or not in connection with the auction.

**14. Auctioneer's Lien.** Lawson~Menzies reserves a lien over all goods in its possession until payment of the Vendors Commission, the Buyers Premium and Expenses.

**15. Law of these Conditions.** These Conditions of Business shall be governed by and construed in accordance with the law of the State of New South Wales and all parties concerned hereby submit to the exclusive jurisdiction of that State's Courts.

**16. Interpretation Clause** In this Agency Agreement the following words and expressions shall have the following meanings:

<b>Auctioneer</b>	Lawson Menzies Pty Limited ACN 097 588 899 its servants and agents except that where the context so permits it shall include the person actually conducting the auction sale on behalf of Lawson Menzies Pty. Limited.
<b>Buyers Premium Expenses</b>	The premium payable to Lawson~Menzies by the Buyer based on a percentage of the Hammer Price as published. All expenses reasonably and necessarily expended by Lawson~Menzies on behalf of the Vendor including but not limited to cartage, photographs, repairs, insurance and cheque issuing costs together with a handling fee not exceeding 20% of the item of expense. In addition storage expenses on uncollected Lots will be charged for at Commercial rates.
<b>Forgery</b>	A Lot made or substantially made with an intention to deceive as to authorship, origin, date, age, period, culture or source which is not shown to be such in the description in the catalogue and which at the date of the auction had a value materially less than it would have had if it had been in accordance with the description.
<b>Hammer Price</b>	The price at which a Lot is knocked down to the Buyer at the auction or the gross sale price, without deduction, if the Lot is sold by private treaty.
<b>Lawson~Menzies Lot</b>	Lawson Menzies Pty Limited ACN 097 588 899 trading as Lawson~Menzies and its employees and agents. Any item deposited with Lawson~Menzies, whether on its premises or elsewhere, with a view to its sale by auction and, in particular, the item or items described against any Lot number in any catalogue. This phrase also includes the word "goods".
<b>Proceeds of Sale</b>	The net amount due to the Vendor on the sale of a Lot being the Hammer Price less Vendors Commission and Expenses, and any other amounts due to Lawson~Menzies or to any associated company of Lawson~Menzies from the Vendor in whatever capacity and howsoever arising.
<b>Reserve Price</b>	The value which is agreed to by Lawson~Menzies and the Vendor in writing as the minimum price for which a Lot will be sold.
<b>Vendor</b>	Includes each and every one of the owners of a Lot and the person or company instructing the Auctioneer to offer that Lot for sale and where more than one jointly and severally
<b>Vendors Commission</b>	The commission due to Lawson~Menzies from the Vendor on the sale or attempted sale of a Lot.
<b>GST</b>	Goods and Services Tax

Words in these Conditions of Business importing the singular or plural number shall be deemed to include the plural or singular number respectively and words importing the masculine gender only shall include the feminine or neuter gender and vice versa as the case may require.

April 2002