

33 AUCTION SINGAPORE CONDITIONS OF BUSINESS

Conditions mainly concerning Buyers

1. The buyer

All lots will be invoiced to the name and address given at the time of registration and the issue of an allocated buyer's number and cannot be transferred to other names and addresses. The highest bidder will be the buyer at the 'hammer price' and any dispute will be settled at the auctioneer's absolute discretion. Every bidder will be deemed to act as principal unless there is in force a written acknowledgement by 33 Auction that he/she acts as agent on behalf of the named principal.

2. Minimum increment

The auctioneer will have the right to refuse any bid which does not exceed the previous bid by at least 5% or by such other proportion as the auctioneer will in his/her absolute discretion direct.

3. Buyer's premium

A Buyer's Premium will be added to the hammer price and is payable by the buyer as part of the total purchase price. The buyer's premium is 22% on the first SGD 200,000 of the hammer price and 18% of any amount in excess of SGD 200,000. The buyer will be responsible for payment of relevant taxes as required by law.

4. Absentee bids

Upon request, 33 Auction shall execute absentee bids on behalf of intending buyers. This service is free. Lots will be bought as cheaply as is allowed by other bids placed and the seller's reserves. In the event of identical bids, the earliest will take precedence. When absentee bids are placed by telephone they are accepted at the buyer's risk, and must be confirmed prior to the sale by letter or facsimile. To ensure a satisfactory service, bidders are urged most strongly to send bids so that they are received at least 24 hours before a sale.

5. Telephone bids

33 Auction will do its best to accommodate telephone bids from buyers who have made proper arrangements at least 24 hours prior to the sale and subject to the availability of sufficient telephone lines. Because this method cannot be entirely free from risk of communication breakdown, 33 Auction cannot be held responsible for losses arising from missed bids.

6. Company property

It is the general policy of 33 Auction to act as agent only for the seller. Circumstances do, however, arise from time to time where 33 Auction or its director/s may have an interest in a lot or lots being offered. In the catalogue, such lots are designated ◊ next to the lot number.

7. Payment

Immediately a lot is sold the buyer will:

- give to 33 Auction his/her name and address and, if so requested, proof of identity;
- pay to 33 Auction the 'total amount due'
- Any payments by a buyer to 33 Auction may be applied by 33 Auction towards any sums owing by the buyer to 33 Auction on any account whatsoever without regard to any directions of the buyer or his/her agent, whether express or implied.

Certain modes of payment will attract a service fee at a certain rate of total amount payable. Please consult the guide for prospective buyers for the updated charge.

8. Collection of purchases

The ownership of the lots purchased will not pass to the buyer until he/she has made payment in full to 33 Auction of the 'total amount due'. After an auction, only limited assistance with packing and/or loading of purchases is available from the staff of 33 Auction. Where such assistance is rendered, no liability will devolve on 33 Auction or its staff for any damage that may arise, from whatever cause, during such packing and/or loading. The buyer will at his/her own expense collect the lot purchased immediately after the auction and will be responsible for all packing, removal, storage and insurance charges.

9. Buyer's responsibility for lots purchased

The buyer will be responsible for the loss of or damage to lots purchased from the time of auction to date of collection. Neither 33 Auction nor its employees or agents will thereafter be responsible for any loss or damage of any kind, whether caused by negligence or otherwise, while any lot is in its custody or under its control.

10. Remedies for non-payment or failure to collect purchases

If any lot is not paid for in full and taken away in accordance with Conditions 8 and 9, or if there is any other breach of either of those conditions, 33 Auction as agent of the seller will, at its absolute discretion and without prejudice to any other rights it may have, be entitled to exercise one or more of the following rights and remedies:

- to proceed against the buyer for payment and/or damages for breach of contract;
- to rescind the sale of that or any other lots sold to the defaulting buyer at the same or any other auction;
- to resell the lot or cause it to be resold by public auction or private sale and the defaulting buyer will be liable to pay to 33 Auction any resulting deficiency in the 'total amount due' (after deduction of any part payment and addition of resale costs) and any surplus will belong to the seller;
- to remove, store and insure the lots at the expense of the defaulting buyer and, in the case of storage, either at 33 Auction's premises or elsewhere;
- to charge interest at a rate not exceeding 2% per month on the 'total amount due' to the extent it remains unpaid for more than 5 working days after the day of the auction;
- to retain that or any other lot sold to the same buyer at the same time or at any other auction and release it only after payment of the 'total amount due';
- to reject or ignore any bids made by or on behalf of the defaulting buyer at any future auctions or require and receive a deposit in an amount determined by 33 Auction before accepting any bids in future;
- to apply any proceeds of sale then due or at any time thereafter becoming due to the defaulting buyer towards settlement of the 'total amount due' and to exercise a lien on any property of the defaulting buyer which is in 33 Auction's possession for any purpose.

11. Legal Costs

The buyer shall be responsible for the payment of 33 Auction's legal costs calculated on the scale as between attorney and its own client incurred in the enforcement of 33 Auction's rights irrespective of whether 33 Auction institute legal proceedings or not.

12. Liability of 33 Auction and sellers

a) Goods auctioned are usually of some age. All goods are sold as it is with all faults and imperfections and errors of description. Illustrations in catalogues are for identification only. Buyers should satisfy themselves prior to sale as to the condition of each lot and should exercise and rely on their own judgement as to whether the lot accords with its description or not. Subject to the obligations accepted by 33 Auction under this condition, neither the seller, 33 Auction, its servants or agents is/are responsible for errors of descriptions or for the genuineness or authenticity of any lot. No warranty whatsoever is given by 33 Auction, its servants or agents, or any seller to any buyer in respect of any lot, and any express or implied conditions or warranties are hereby excluded.

b) Any lot which proves to be a 'deliberate forgery' may be returned by the buyer to 33 Auction within 21 days of the date of auction in the same condition in which it was at the time of the auction, accompanied by a statement of defects, the number of the lot, and the date of the auction at which it was purchased. If 33 Auction is satisfied that the item is a 'deliberate forgery' and that the buyer has and is able to transfer a good and marketable title to the lot, free from any third-party claims, the sale will be set aside and any amount paid in respect of the lot will be refunded, subject to the express condition that the buyer will have no rights or claims against 33 Auction if: i) the description in the catalogue at the date of the sale was in accordance with the then generally accepted opinion of scholars and experts or fairly indicated that there was conflict of such opinion; or ii) the only method of establishing at the date of publication of the catalogue that the lot was a 'deliberate forgery' was by means of a scientific process not generally accepted for use until after publication of the catalogue, or by a process which was unreasonably expensive or impractical.

c) A buyer's claim under this condition will be limited to any amount paid in respect of the lot and will not extend to any loss or damage of whatsoever nature suffered, or expense incurred by him/her.

d) The benefit of this condition will not be assignable and will rest solely and exclusively in the buyer who, for the purpose of this condition, will be and only be the person to whom the original invoice is made out by 33 Auction in respect of the lot sold.

Conditions mainly concerning sellers and consignors

13. Inspections

33 Auction shall inspect items brought to its offices or viewed at seller's domain for potential auction and will advise owners as to the value and suitability within the 33 Auction trade markets. Items of insufficient value or unsuitable for the auction trade must be collected within 5 working days after having been notified. Items not collected will be sold in terms of clause 25. The service is without charge, though in certain instances it may be necessary to charge out-of-pocket and travelling expenses where the seller is out of town. 33 Auction reserves the right to accept or reject any item not meeting 33 Auction's criteria for the auction trade markets.

14. Seller's commission

A seller's commission is payable by the seller on the hammer price for lots sold. It will be deducted from the sales proceeds to the seller.

15. Marketing Illustration

The seller agrees to have the items illustrated in the auction catalogue and agrees to pay the published rate of marketing illustration charge. 33 Auction is authorised to feature item(s) as it deems fit, and the sellers shall not request for special featuring of his/her/its auction item(s).

16. Warranty of title and availability

a) The seller warrants to 33 Auction and to the buyer that he/she is the true owner of the property or is properly authorized by the true owner and is able to transfer good and marketable title to the property, free from any third-party claims.

b) The seller of any property not held by 33 Auction on its premises or under its control, warrants and undertakes to 33 Auction and the buyer that the property will be available and in deliverable state on demand of the buyer.

c) The seller indemnifies 33 Auction, its agents and the buyer against any loss or damage suffered by either in consequence of any breach of (a) or (b) above on the part of the seller.

17. Liability for Loss or Damage

a) Unless otherwise agreed with 33 Auction in writing in accordance with paragraph (d), 33 Auction will assume liability for loss or damage to any item, commencing at the time that item is received by 33 Auction and ceasing when (i) risk passes to the Buyer of the lot following its sale; (ii) for unsold lots, 45 days after the sale or when the lot is released to the Seller (whichever is earlier)

b) The Seller agrees to pay a charge of 1.00% of (i) hammer price if the property sells, or (ii) reserve price if the property fails to sell, subject to a minimum of SGD 50 per lot.

c) If any loss or damage should occur to the lot during the period identified in paragraph (a) above, 33 Auction liability to compensate the Seller in respect of that loss shall be limited to the amount set out in paragraph (b)(i) to (ii) as applicable, less Seller's commission and Expenses.

d) The Seller must agree with 33 Auction in writing if it does not wish 33 Auction to accept liability for loss or damage to any item delivered to 33 Auction, and undertake to maintain insurance cover for the item until the Buyer has made payment for the item in full.

18. Reserves

The seller will be entitled to place, prior to the auction, a reserve on any lot, being the minimum 'hammer price' at which that lot may be treated as sold. A reserve once placed by the seller may not be changed without the consent of 33 Auction. 33 Auction may at its option sell at a 'hammer price' below the reserve, but in any such cases the sale proceeds to which the seller is entitled will be the same as they would have, had the sale been at the reserve. 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. The reserve, if any, on any one lot will not exceed the low estimate as published in the catalogue.

19. Authority to deduct commission and expenses

The seller authorizes 33 Auction to deduct commission at the 'stated' rates, 'illustration' and 'expenses' from the 'hammer price' and acknowledges 33 Auction's right to retain the premium payable by the buyers in accordance with Condition 3.

20. Rescission of the sale

If before 33 Auction remits the 'sale proceeds' to the seller, the buyer makes a claim to rescind the sale under Condition 12 or otherwise and 33 Auction is of the opinion that the claim is justified, 33 Auction is authorized to rescind the sale and refund the buyer any amount paid to 33 Auction in respect of the lot.

21. Payment of sale proceeds

Subject to Condition 16 above, 33 Auction will remit the 'sale proceeds' to the seller not later than 35 days after the date of auction, but if by that date 33 Auction has not received the 'total amount due' from the buyer, then 33 Auction will remit the 'sale proceeds' within 5 working days after the date on which the 'total amount due' is received from the buyer.

If the buyer fails to pay 33 Auction the 'total amount due' within 3 weeks after the auction, 33 Auction will endeavour to notify the seller and take the seller's instructions as to the appropriate course of action and, so far as in 33 Auction's opinion it is practicable, will assist the seller to recover the 'total amount due' from the buyer. If circumstances do not permit 33 Auction to take instructions from the seller, the seller authorises 33 Auction at the seller's expense to agree special terms for payment of the 'total amount due', to remove, store and insure the lot sold, to settle claims made by or against the buyer on such terms as 33 Auction will in its absolute discretion think fit, to take such steps as are necessary to collect the amount due by the buyer to the seller and if necessary to rescind the sale and refund money to the buyer. If, notwithstanding that the buyer fails to pay to 33 Auction the 'total amount due' within 3 weeks after the auction, 33 Auction remits the 'sale proceeds' to the seller, the ownership of the lot shall pass to 33 Auction.

22. Charges for withdrawn lots

Where a seller cancels instructions for sale, 33 Auction reserves the right to charge both full buyer's premium and seller's commission on 33 Auction's middle estimate of the low and high estimates of the property withdrawn, together with 'expenses' incurred in relation to the property.

23. Rights to photographs and illustrations

The seller gives 33 Auction full and absolute right to photograph, illustrate, or otherwise produce images, of any lot placed in its hands for sale and to use such photographs and illustrations and any photographs and illustrations provided by the seller at any time at its absolute discretion (whether or not in connection with the auction).

24. Provenance

In certain circumstances, 33 Auction 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 given the age of the work of art.

25. Unsold lots and uncollected items

33 Auction reserves the right to sell any unsold lot within 35 working days from the auction date, at the reserve price on behalf of the seller. Where any lot fails to sell after the above period, 33 Auction will notify the seller accordingly. Uncollected items not suitable for auction must be collected within 5 days after being notified of their unsuitability as per clause 13 and failing timely collection they will be dealt with on the basis set out in paragraph 25(c) below.

The seller must make arrangements either to re-offer the lot for sale or to collect the lot. If such arrangements are not made:

- within 7 days of notification, the seller will be responsible for any removal and storage expenses;
- within 3 months of notification, 33 Auction will have the right to sell the lot at public auction without reserve and to deduct from the 'hammer price' any sum owing to 33 Auction including (without limitation) removal, storage, commission at the stated rates, and other reasonable expenses before remitting the balance to the seller.
- If 33 Auction is unable to sell the lot at a public auction as contemplated in paragraph 25(b) above then 33 Auction is entitled to sell the lot and any uncollected items without auction at the highest attainable price and to deduct from the selling price any sum owing to 33 Auction including (without limitation) removal, storage, commission at the stated rate, and other reasonable expenses before remitting the balance, if any, to the seller. Any shortfall which may be owing by the seller to 33 Auction consequent upon the seller's failure to collect the unsold lot shall be payable together with interest and legal costs on demand.

26. General conditions and definitions

33 Auction sells as agent for the seller (except where it is stated wholly or partly to own any lot as principal and such lots are identified by ◊ next to the lot number) and as such is not responsible for any default by seller or buyer.

27. Any representation or statement by 33 Auction, in any catalogue, as to authorship, attribution, genuineness, origin, date, age, provenance, condition or estimated selling price is a statement of opinion only. Every person interested should exercise and rely on his/her own judgement as to such matters and neither 33 Auction nor its servants or agents are responsible for the correctness of such opinions.

28. While the interests of prospective buyers are best served by attendance at the auction, 33 Auction will if so instructed execute bids on their behalf, neither 33 Auction nor its servants or agents being responsible for any neglect or default in doing so or for failing to do so.

29. 33 Auction will have the right, at its discretion, to refuse admission to its premises or attendance at its auctions by any person.

30. 33 Auction has absolute discretion without giving any reason to refuse any bid, to divide any lot, to combine any 2 or more lots, to withdraw any lot from the auction and in case of dispute to put up any lot for auction again.

- Any indemnity under these conditions will extend to all actions, proceedings, costs, expenses, claims and demands whatsoever incurred or suffered by the person entitled to the benefit of the indemnity.
- 33 Auction declares itself to be a trustee for its relevant servants and agents of the benefit of every indemnity under these conditions to the extent that such indemnity is expressed to be for the benefit of its servants and agents.

31. The parties choose *domicilium citandi et executandi** at the addresses reflected on the face thereof. Any notice given in connection with this agreement may be delivered by hand; or be sent by prepaid registered post; or be sent by telefax or by email if the domicile includes a telefax number and/or an email address, to the domicile chosen by the party concerned. Any notice or process delivered on any party in connection with any matter or subject arising out of this agreement or any notice shall be deemed to have been delivered if handed to any responsible person at the domicile chosen by any party and it shall not be necessary to hand such process or notice to any party personally.

A notice given as set out above shall be presumed to have been duly delivered:-

- on the date of delivery if delivered by hand or telefax or email;
- on the fourth day from the date of posting including the date of posting if posted by pre-paid registered post from within the Republic of Singapore.

32. Every auction and all matters concerned therewith including these conditions, will be governed by and construed in accordance with the laws of Singapore and the buyer submits to the non-exclusive jurisdiction of the Singaporean courts.

33. In these conditions:

- 'catalogue' includes any advertisement, brochure, estimate, price-list, website content and other publication;
- 'hammer price' means the price at which a lot is knocked down by the auctioneer to the buyer;
- 'total amount due' means 'hammer price' in respect of the lot sold together with any premium chargeable and additional charges and expenses due from the defaulting buyer under Condition 10;
- a 'deliberate forgery' means an imitation made with the intention of deceiving 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 sale had a value materially less than it would have had if it had been in accordance with that description;
- 'sale proceeds' means the net amount due to the seller, being the 'hammer price' of the lot sold less commission at the 'stated rates', 'expenses' and any other amounts due to 33 Auction by the seller in whatever capacity and howsoever arising;
- 'stated rates' means 33 Auction's published rates of commission for the time being;
- 'expenses' in relation to the sale of any lot means 33 Auction's charges and expenses for illustrations, special advertising, packing and freight of that lot and any GST thereon.

34. Special terms may be used in catalogues in the description of the lot. Where terms are not self-explanatory and have special meanings ascribed to them, a glossary will appear before Lot 1 in the catalogue of the auction.

35. Data Protection

33 Auction intends to use your personal data for direct marketing with your consent. We would like to use your name, phone number, email and address to contact you about transactions, the events, products and services of 33 Auction and our associated companies. We do not sell or trade Data but it may be provided to (a) 33 Auction associated companies for direct marketing; and (b) third party services providers assisting us with mailing, shipping, legal, accounting, travel and hospitality. When doing so, we will require them to ensure that your Personal Data disclosed to them is kept confidential and secure.

Clients will please note that for security purposes, 33 Auction premises are subject to video recording. Telephone calls eg. telephone and internet bidding/voicemail messages may also be recorded. You may access or correct the Data by contacting our Data Quality Representative via email at data@33auction.com

36. The headings in these conditions do not form part of the Conditions of Business but are for convenience only.

**domicilium citandi et executandi* refers to the address where a summons or other official notice should be served if necessary, which must be supplied by somebody applying for credit or entering into a contract.