

HIBISCUS CENTRAL MARKET

TERMS & CONDITIONS GOVERNING THE SALE OF ALL ITEMS ENTERED INTO THE GRAND AUCTION.

Summary

All items submitted and entered in the auction must have a minimum reserve price of £5.00. A 20% fee will be levied on all items sold. Unsold items will be returned to the owner. Unsold items that are not retrieved by owners by the end of the day will be discarded, unless there is a prior arrangement with the owner in place for such items to be secured by Hibiscus Central Market, for a maximum period of twenty-four hours beyond which such items will be disposed of.

1. BEFORE THE SALE

1.1 Agent for the seller

Unless otherwise agreed, Hibiscus Central Market acts as agent for the seller. The contract for sale of the property is therefore made between the Seller and the Buyer.

1.2 Definitions

For the purposes of the current Terms and Conditions, the Seller shall be defined as the owner of the Goods. It is implied that the Seller is the legitimate owner and is authorised to sell the Lot.

The Bidder is any person participating in the auction, and the Buyer is the successful Bidder for a particular Lot.

The Lot means the item(s) put up for sale by Hibiscus Central Market and to which the present Terms and Conditions apply.

1.3 Catalogue descriptions

Any representation in any catalogue or otherwise as to the origin, date, age, attribution, authenticity or estimated selling price of any lot is a statement of opinion only. Such statements do not constitute a representation warranty or assumption of liability by HCM in relation to the Lot. Any prospective Buyer should satisfy themselves prior to the sale as to the reliability of the catalogue description.

The absence of mention related to prior restorations in the catalogue descriptions does not imply that the good is exempt the reof.

Photographs of any Lot provided by HCM are for indicative purposes only and are not deemed to be a precise representation of the said Lot.

The Buyer is advised to seek independent expert advice in order to be assured of the authenticity and true state of the good.

1.4 Inspection

Prior to auction, prospective purchasers are strongly advised to personally examine any property in which they are interested to satisfy themselves in relation to matters which may concern them.

1.5 Condition report

HCM may issue a Condition Report on request prior to the sale.

This Condition Report is for identification purposes only and cannot be considered as giving a precise account of the Lot's true state. Thus, some imperfections and faults may not be accounted for in the Condition Report.

As aforementioned, and in the absence of any contractual value of the Condition report, it is the Buyer's sole duty to inspect in person the Lot in order to be assured of its true condition and HCM shall not be responsible for assertions within the Condition Report hereto.

1.6 Electricals

All electrical items are sold as seen and HCM offers no guarantee as to the working condition of such items or their safety.

It is the Buyer's duty to take necessary steps to be assured that the Lot is safe for normal use.

1.7 Estimates

Estimates are based on various factors inherent to the situation of the market at the time of the sale, as well as considerations such as the condition, rarity, or quality of the item etc. Estimates are only indicative and represent the opinion of HCM. Estimates provided by HCM cannot constitute a guarantee as to the value of the good. Subsequently, goods may sell at prices lower or higher than the provided estimates.

1.8 Reserves

All Lots are offered subject to a reserve, which is the confidential minimum sale price. The reserve will never exceed the low estimate printed in the catalogue. HCM may open the bidding on any Lot below the reserve by placing a bid on behalf of the seller, and may in their discretion continue to bid up to the reserve price. This can be achieved by bidding in response to other bidders or alternatively by placing consecutive bids.

1.9 Registration to the sale

All bidders will need to register at the sale.

Failure to register shall result in the impossibility for the bidder to purchase a Lot.

1.10 Proof of identity

Bidders not previously known to HCM will be required to provide:

- Official proof of identity in the form of a passport or photocard driving licence. No other forms of ID are acceptable.
- Proof of address of main residence. Only official documents showing name and address will be accepted.
- Both landline and mobile telephone numbers
- A bank reference for foreign bidders may be requested
- Corporate clients will have to provide a certificate of incorporation prior to the auction, along with the representative's ID in accordance with the abovementioned requirements for proof of identity.

Any Bidder that does not match the provided identity for registration may not purchase during the sale.

2. DURING THE SALE

2.1 Attendance at auction

Attending the auction in person is recommended.

HCM has the right at their absolute discretion to refuse participation in any auction, to reject any bid, and to refuse admission to the premises.

Bidders are not obliged to be present in person at the auction.

Absentee bidders shall be required to make necessary arrangements with HCM prior to the sale.

2.2 Personal bidding

Bidders attending the auction in person shall be required to collect a unique bidding paddle prior to bidding in the sale.

2.3 Commission bids

HCM will use reasonable efforts to carry out Commission bids received by them prior to the sale for the convenience of clients who are not present at the auction in person. Execution of Commission bids is a free service provided to help clients and HCM does not accept liability for any failure to execute a Commission bid or for errors and omissions in connection with it.

Commission bids shall be executed at the lowest possible price, subject to competing bids and reserves. Although HCM will endeavour to inform Buyers, it is the Buyer's responsibility to check if they have been successful in purchasing a Lot.

In the event of multiple commission bids set at the same price, the first registered commission bid will take priority.

2.4 Telephone bids

If a bidder is not able to attend in person an auction, HCM will use reasonable efforts to contact prospective Buyers who decide prior to commencement of the sale to bid by telephone.

HCM cannot be held responsible in the event of issues affecting connectivity, resulting in the loss of a chance of purchasing the Lot for the Bidder.

2.5 Internet bids

Some sales may be available to internet bidding, as well as personal attendance. In this event, HCM shall not be held responsible for issues affecting connection. In addition to having our own in-house online bidding platform, some sales are also offered with online live bidding

by third party platforms, HCM is not responsible for any issues that may arise during registration or utilising said platforms. HCM encourages prospective bidders to bid directly with HCM or via traditional direct in-house means wherever possible.

2.6 Bidding on behalf of someone

A Buyer may bid by proxy. In this event, proof of identity of both the Buyer and the proxy must be communicated to HCM prior to the sale. A copy of the mandate shall also be required.

2.7 Bidding on an item

Bid incrementation is at the auctioneer's entire discretion.

2.8 Video transmission

For the purpose of the sale, Lots may be displayed on video during the auction. In the event of transmission issues, HCM shall not be held responsible for any subsequent outcome.

2.9 Dispute resolution during the auction

Any dispute shall be settled at the auctioneer's absolute discretion. Under no circumstances will a sale be cancelled after the fall of the hammer, except at the auctioneer's entire discretion.

3. CONTRACT FORMATION AND EFFECTS

3.1 Contract of sale

The contract of sale is between the Buyer and the Seller.

The Buyer shall be the bidder at the highest price at the fall of the hammer. The sale is deemed complete once the auctioneer announces its completion by the fall of the hammer and the contract shall be binding thereafter between the Buyer and the Seller and HCM.

When a Buyer purchases multiple Lots, each Lot is the subject of a separate contract of sale.

3.2 Transfer of property

Property of the goods shall pass to the Buyer only once HCM has received full payment for the goods, this includes the price at the fall of the hammer as well as Buyer's premium, relevant taxes, and costs in relation to shipping.

3.3 Transfer of risks

Purchased Lots shall be at the Buyer's risk in all respects from the fall of the hammer, and neither HCM nor their agents shall be responsible for any loss or damage of any kind, whether caused by negligence or otherwise.

3.4 Cancellation of the sale

At the fall of the hammer, the contract is formed between the Buyer and HCM and is binding thereafter.

Under no circumstances can the Buyer cancel the sale.

HCM may at its entire discretion, during or after the auction, cancel the sale of the Lot or reoffer and resell the Lot if it becomes aware of any error or dispute of any nature, whether or not title has passed to the Buyer, and up to a period of 6 months after the said sale.

Grounds for cancellation under the present section shall include but not be limited to any dispute relating to the attribution or provenance of the Lot, ownership and title, fraud or deceit, lack of relevant licences or certificates, any subsequent changes in domestic or international legislations restricting the sale of export of goods etc.

In the event of internet-only auctions (where are no offered advanced physical viewing times), the Buyer shall have a 14 day right to retract, after receipt of the Lot, under EU Consumer Law.

Public auctions are not covered by this right to retract.

4. AFTER THE SALE

4.1 Payment

All purchased lots must be paid for on the day of the auction. Commission bids must be paid for no later than the day after the auction. Payment must be made by cash, debit, credit card or bank transfer. We do not accept cheques. We do not currently accept American Express.

HCM adheres strictly to current anti-money laundering regulations and reserves the right to refuse payment or cancel the sale of any lot, should suspicion or evidence of regulation infringement arise. The 2020 guidelines reference 'Art Works', but are as yet to be fully defined. As such, HCM reserves the right to adapt buying/selling rules at any time, in order to maintain compliance.

Cash payments shall not be receivable for amounts over €1,000, regardless of the payment being for one or multiple Lots.

Should it encounter contravention of said regulations or is unable to bring buyers/sellers into line with said regulations through advice and support, HCM reserves the right to cancel any lot transaction and offer said lots to underbidders and where applicable will notify the relevant authority of the suspected contravention if deemed intentional.

Payments made by someone other than the registered Buyer shall not be accepted.

Title will not pass to the Buyer until HCM has received all amounts due to them in cleared funds even if the Lot has been released to the Buyer.

4.2 Buyer's Premium

The Buyer will pay HCM a premium of 5% on the hammer price plus VAT on that premium on the first £500.00 and 12% plus VAT on the balance thereafter. A Buyer's Premium of 21% plus VAT is charged on Wine & Spirits Lots.

The VAT payable varies by symbol as below:

No Symbol: The standard rate of VAT is charged on the premium under the Auctioneers Margin Scheme in accordance with Art. 333 of 2006/112/EC. Standard UK VAT will be charged on the buyers' premium and invoiced on an inclusive basis.

†: Normal VAT rules apply, and the standard rate of VAT will be charged on both hammer price and premium.

*: These lots have been imported from outside the UK for sale and placed under the Temporary Admission regime. Import VAT is payable at 5% on the hammer price. VAT at 20% will be added to the buyer's premium but will not be shown separately on the invoice.

4.3 Taxes

VAT is payable on the buyer's premium, and for some lots, VAT is payable on the hammer price. The successful bidder will be responsible to ascertain and pay any applicable taxes including VAT, sales tax or any equivalent tax arising on sale of a particular lot.

No VAT will be refunded where the total VAT on an invoice is under £70.

4.4 Artist Resale Rights / Droit de Suite

Lots marked with 'ARR' may be subject to a levy.

Droit de Suite is a royalty payable to a qualifying artist or to the artist's heir each time a work is resold during the artist's lifetime and up to a period of 70 years after the artist's death. Royalties are calculated on a cumulative sliding percentage scale based on the hammer price excluding the buyer's premium. The royalty does not apply to Lots selling below the sterling equivalent of €1,000.

4.5 Remedies for non-payment

If the Buyer fails to make full payment in cleared funds within the time required as aforementioned, HCM shall be entitled to exercise any one or more of the following rights or remedies additional to such other rights or remedies available:

- To cancel the sale
- To resell the Lot on such terms by auction or otherwise entirely at discretion. The Buyer will be liable for all costs including legal fees incurred in the sale and will remain liable for any shortfall arising upon sale.
- To offset against any sums which HCM may owe the Buyer the outstanding sums unpaid by the said Buyer
- Where the Buyer owes sums to HCM in respect of different transactions, to discretionarily apply any sum paid by the Buyer for discharge of any owed sums.
- To refuse entry to the Buyer at any future auction and/or reject any future bids by the Buyer and/or seek a deposit from the Buyer entirely in the discretion of HCM.
- To exercise a lien over the Buyer's property in the possession of HCM as collateral for any outstanding sums owed and to exercise all the rights and remedies of a person holding security over any such property, whether by way of pledge, security interest or in any other way to the extent permitted by Law.
- To commence legal proceedings for the recovery of the total amount due together with interest, legal fees and costs.
- To take such other action as is permissible by Law and in the discretion of HCM.

4.7 Collection

Purchased Lots can be collected from the auction room after the sale has ended or between 4.00pm and 6.00pm up until close of business on the day of the sale. On request special arrangements may be made for collection. Any delay in collection must be communicated clearly to HCM in advance of the collection deadline and HCM reserves the right to impose charges thereafter at its utter discretion.

4.7 Storage

Unsold items that are not retrieved by owners by the end of the day will be discarded, unless there is a prior arrangement in place for such items to be secured by Hibiscus Central Market for a maximum period of twenty-four hours beyond which such items will be discarded.

4.8 Shipping

Any shipping costs that may arise subsequent to the sale shall be at the Buyer's expense. Such costs may include but not limited to postage, import and export permits where required and any other licence necessary for goods to be shipped outside of the European Union.

HCM does not offer insurance for shipping. However, HCM may arrange insurance upon the Buyer's request and at the Buyer's expense.

HCM cannot be held responsible for any damages that may be incurred to goods prior to the fall of the hammer.

4.9 Loss or Damage

HCM does not accept liability for loss or damage occurring to Lots after the sale. HCM will use reasonable efforts when handling Lots, but shall not be responsible for any loss or damages that may occur whilst the said Lot is in any third party's care.

4.10 Cultural Goods import and export restrictions.

Cultural goods may be subject to import and export restrictions. UK Law, a licence may also be required for intra-EU trade. Licenses are issued by Arts Council England, and it is the Buyer's duty to obtain them.

The Buyer must verify local legislation prior to the sale in order to be assured that import or export is possible.

4.11 Warranties

HCM does not provide the Buyer with warranties relating to any Lot, unless required by Law.

4.12 Authenticity warranty

The Buyer shall give notice to HCM within 28 days from knowledge or any event giving reasons for suspecting that the item is not authentic, and within one year of the said sale. Any claim thereafter shall not be receivable. For the purposes of the present paragraph, authenticity shall be defined as the state of a Lot that is genuine and not a forgery or a copy.

5. CLOCKS AND WATCHES

All Lots are sold as seen. Clocks and watches are therefore not deemed to be sold in working condition. Absence of reference thereof in the description does not imply that the Lot is in good condition and without defects or has been subject to repair or restoration.

HCM makes no representation or warranty that any clock or watch is in working order. As clocks and watches often contain fine and complex mechanisms, bidders should be aware that a general service, change of battery or further repair work, for which the Buyer is solely responsible, may be necessary.

Most clocks and watches are likely to have been repaired in the past, and as a result may include parts that are not original thereto.

HCM acts in compliance with such legislations and shall take necessary steps where required. Subsequently, watches may be deemed sold without their straps.

6. GLOSSARY OF PICTURE CATALOGUING TERMS

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 of fact. The Company reserve the right, in forming their opinion, to consult and rely upon any expert or authority considered by them to be reliable.

7. COPYRIGHT

The company Hibiscus Caribbean Elderly Association the sole owner of HCM reserves all rights and shall own the copyright on all images, illustrations, written and digital material produced by or for HCM relating to a Lot, including catalogue contents. Such copyright shall always remain the property of the Company. Neither the Buyer nor anyone else shall use the above-mentioned materials without the prior written consent of HCM.

Some Lots may be subject to copyright protection, HCM does not guarantee said Lots are free thereof.

8. DATA PROTECTION

The Buyer agrees that personal information transmitted to HCM may be disclosed exclusively for the purposes of business, or as required by Law. HCM shall not use personal information for any other purpose without the Buyer's prior consent.

HCM will never sell, lend or trade in personal data provided by any Bidder.

9. SEVERABILITY

Whenever and to the extent that any provisions of these terms would or might contravene the provision of any relevant legislation, such provision is to take effect only in so far as it may do so without contravening such legislation and the legality, validity and enforceability of any of the remaining provisions are not in any way to be affected or impaired as a result.

10. AMENDMENTS

The current Terms and Conditions may be amended, verbally or in writing, prior to the sale.

11. LAW AND JURISDICTION

he rights and obligations of the parties with respect to these Conditions of Sale and the conduct of the auction and any matters related to any of the foregoing shall be governed by and interpreted in accordance with the Law of England and Wales.

For the benefit of HCM all bidders and sellers agree that the Courts of England are to have exclusive jurisdiction to settle all disputes arising in connection with all aspects of all matters or transactions to which these Conditions of Sale and Authorship warranty relate or apply.