

art + object

3 Abbey Street, Newton, Auckland 1010
PO Box 68345, Wellesley Street, Auckland 1141
Ph: +64 9 354 4646
Fax: +64 9 354 4645, info@artandobject.co.nz

Terms of sale of items between Art + Object Limited (A+O) and the owner/agent named above (vendor) for the item(s) named above (item)

1. Ownership

The Vendor warrants that they are the owner of each of the Items or authorised by the owner to sell the Items and are able to transfer free and unencumbered clear title for all Items. The Vendor must ensure the Items comply with all applicable legal requirements and must supply any certifications, licenses or other documentation legally required to accompany the Items. The Vendor must indemnify A+O and any buyer of an Item for any loss suffered due to a breach of the Vendor's obligations in these terms.

2. Powers Of Sale

A+O will have sole discretion to:

- (i) offer or not for sale any Item, at any place, date and time and under conditions determined by A+O;
- (ii) decide to admit or not any person to their premises or auction site who wish to view or bid for an Item;
- (iii) accept or decline any bid for the Items;
- (iv) withdraw or combine any number of Items to be auctioned;
- (v) in the case of dispute, re-offer an Item and subject to any reserve, sell any Items after an auction where it did not sell;
- (vi) illustrate any Item and to use that image for any promotion of the Item or A+O;
- (vii) seek an independent opinion of any Item and to use either that opinion, or similar information provided by the Vendor, in any manner whatsoever in the promotion or presentation of the Item.

3. Remedial Work

The Vendor authorises A+O and agrees to pay the cost of having remedial work carried out on an Item where that work is considered by A+O to be a reasonable expense in making the Item more saleable.

4. Reserve

In discussion with A+O, the Vendor may set a reserve (minimum selling price) for an Item. A+O is not obliged to accept or offer Items with a reserve set solely by the Vendor. Any reserve is inclusive of A+O's commission unless otherwise noted and may not be changed without A+O's agreement. A+O may sell any Item below its reserve but the Vendor will be entitled to net sale proceeds equal to those payable if the Item had sold at its reserve price. Where a reserve has been set, only A+O or their agent may bid on behalf of the Vendor. A+O may at their discretion publish a presale estimated price range for any Item.

5. Commission, GST and Artist Royalties

The commission percentage noted above is charged on the hammerfall price, excluding any GST or artist royalty component. The commission percentage does not include GST or artist royalties, which are payable by the Vendor. The Vendor agrees that:

- (i) A+O may be paid a buyer's premium by a buyer of an Item;
- (ii) The Vendor must pay any fees, royalties or charges levied by a governmental authority in relation to the sale of any Item;
- (iii) the Vendor must pay all costs incurred by or agreed with A+O and noted above for insurance, cartage, storage, framing, restoration, photography or similar actions associated with promotion and presentation of any Item and such costs will be deducted from the Item's sale proceeds or in the case of an Item failing to sell, must be paid by the Vendor before the Item is removed from A+O's possession;
- (iv) The Vendor grants to A+O a general lien over all of the Vendor's property in the possession or control of A+O, including a right of sale, as security for amounts owed by the Vendor to A+O and A+O may hold or sell such property to satisfy any amount owed by the Vendor to A+O; and
- (v) The vendor is responsible for paying any royalties due under the Resale Right for Visual Artists Act 2023.

art + object

3 Abbey Street, Newton, Auckland 1010
PO Box 68345, Wellesley Street, Auckland 1141
Ph: +64 9 354 4646
Fax: +64 9 354 4645, info@artandobject.co.nz

6. Insurance and Risk

The Vendor must deliver all Items to A+O in saleable and presentable condition not less than 21 days prior to the auction, at the Vendor's cost. A+O will, at the Vendor's cost, insure the Items from the time they are received by A+O until either the risk passes to the buyer of the Item or the Item is dispatched for return delivery to the Vendor. The insurance cost payable by the Vendor on each Item will be charged at the percentage rate noted above calculated on the hammerfall price, if the Item has been sold; or on the Item's reserve price, prior to a sale; or on the median of A+O's estimated price range, if the Item has not been sold and does not have a reserve.

The level of insurance to be arranged by A+O will be the reserve or the median of A+O's estimated price range less all applicable fees, charges, commission and costs including insurance noted above. Items in transit being returned to the Vendor are not covered by insurance arranged by A+O.

If the Vendor instructs A+O not to insure any Items this instruction must be in writing and the Vendor must:

- (i) indemnify A+O and its agents against any loss or damage relating to any damage to the Vendor's property arising from any cause including negligence;
- (ii) provide evidence that the Vendor has informed their insurer of the indemnity and their insurer agrees to waive any claims against A+O and its agents.

If the Vendor does not comply with the above requirements then A+O will be entitled to arrange insurance for the Items and the Vendor will be liable for the insurance costs as set out above. A+O will take all reasonable care in relation to frames but due to their fragile nature, A+O accepts no liability for damage to any frames.

7. Withdrawals

Upon signing above you are obliged to sell the Items on the terms set out in this document and you are not entitled to withdraw any Item from sale or increase a reserve once set, without A+O's agreement and any such agreement is contingent on the Vendor paying A+O a fee, as compensation for costs incurred by A+O, as follows:

- (i) If the reserve for an Item is increased and the Item fails to sell then the fee payable is 10% of the revised reserve plus GST;
- (ii) If an Item is withdrawn before cataloguing or specific promotion then the fee payable is 5% of the reserve (or if there is no reserve then the median of A+O's estimated price range) plus GST;
- (iii) If an Item is withdrawn after cataloguing or specific promotion then the fee payable is 20% of the reserve (or if there is no reserve then the median of A+O's estimated price range) plus GST; In addition to the above fee, the Vendor must pay all other costs, charges and other amounts payable to A+O prior to removal of any withdrawn Items.

8. Bidding by A+O

A+O is entitled to bid for any item on behalf of any buyer and to make vendor bids provided vendor bids are carried out in accordance with the Fair Trading Act 1986. The Vendor must not bid for any Item either themselves or through an agent or representative.

9. Payment to Vendor

Following the sale of a Vendor's Item and receipt of the full amount of the sale proceeds from the purchaser, A+O must pay to the Vendor the sale proceeds less any amounts payable to A+O under this agreement, within 14 working days of receipt of the sale proceeds unless an earlier date is required by any applicable law. A+O will not be liable for any failure by the purchaser to pay the purchase price. If the purchaser fails to pay the purchase price within 14 working days of the date of sale then:

art + object

3 Abbey Street, Newton, Auckland 1010
PO Box 68345, Wellesley Street, Auckland 1141
Ph: +64 9 354 4646
Fax: +64 9 354 4645, info@artandobject.co.nz

- (i) A+O shall attempt to notify the Vendor and obtain the Vendor's instructions as to action to take against the purchaser;
- (ii) A+O will assist in as far as they deem practicable in assisting the Vendor to recover the purchase price from the purchaser but A+O will not be required to issue legal proceedings in its own name or to pay for any legal proceedings against the purchaser;
- (iii) If A+O is unable to obtain instructions from the Vendor, then the Vendor grants A+O absolute discretion and authority to insure and store the sold Item at the Vendor's cost, to settle claims made by or against the purchaser, to take steps it deems necessary to recover money owed and if necessary to rescind the sale and refund any money paid by the purchaser.

The parties agree that to the extent legally possible, sections 36ZF(1) and (2) of the Fair Trading Act 1986 will not apply.

10. Unsold Items

If, at an auction for an Item, the Item's reserve is not met or no bids are received, A+O will notify the Vendor and A+O will hold the exclusive right to retain and sell the unsold Item at its current reserve price for 28 days following the auction. During the 28 day period the Vendor must not sell or offer to sell the unsold Item. At the end of the 28 day period A+O may give notice to the Vendor requiring the Vendor to collect the unsold Item within 2 months. If the Item is not collected within 2 months, the Vendor authorises A+O to sell the Item on such price and other terms as decided by A+O and to deduct all costs associated with the sale and all amounts payable by the Vendor to A+O. The net sale proceeds will be payable to the Vendor in accordance with clause 9. If the Vendor is untraceable then the net sale proceeds will be placed in A+O's bank account in trust for the Vendor.

11. Fakes, Forgery, Falsification And Faults

The Vendor must accept return of any Item and refund to A+O any net sale proceeds paid by A+O if:

- (i) Within 24 months from the auction date an Item is proven to be fake or a forgery whether or not the Vendor knew of the authenticity; and/ or
- (ii) Within 12 months from the auction date the Item is proven to have a deliberately disguised or undisclosed repair, or that any supporting documentation provided with the Item was false or significantly factually erroneous, whether the Vendor knew of the repair, falsity or error or not.