



## Terms & Conditions of Sale for Buyers – Private Sales 2020

1. These Terms and Conditions govern the contractual relations of buyers, vendors, and MacDougall Arts Ltd. All offers shall be treated as being made upon these Terms and Conditions of Sale.

2. In these Terms and Conditions of Sale, MacDougall Arts Ltd. — who act as intermediary and usually as agents for the vendor — are called "MacDougall's " or "us".

### Price

3. The purchase price payable by the buyer is as specified on the Sales Invoice. All prices are quoted in UK Pounds Sterling unless otherwise specified.

### VAT

4. Works are normally sold under the UK Margin Scheme. Input tax deduction has not been and will not be claimed in respect of such works. If the charges include VAT, these will not be shown separately and may not be reclaimed as input tax.

5. Items marked with an asterisk (\*) have been imported from outside the EU. 5% is included in the purchase price to cover Import VAT. EU VAT registered buyers should note that this 5% cannot be refunded or claimed against VAT.

6. Buyers from outside the EU who intend to ship their purchases outside the EU within three months should tell MacDougall's at time of payment. For them, the 5% charge on asterisked works will be treated as a deposit, refundable on presentation of documentary proof of export outside the EU within three months.

### Droit de Suite (Artist's Resale Right)

7.1 Some works will be subject to Droit de Suite (Artist's Resale Right), and will be so indicated with a “§” mark in the catalogue or otherwise notified. This is a royalty payable to a qualifying artist (citizens of EU and EEA countries) each time a work is re-sold during the artist's lifetime and to their descendants for 70 years after their death.

7.2 Buyers will be charged an amount equal to this resale royalty where it applies. These resale royalties are not subject to VAT and do not apply when the purchase price is less than 1,000 euros. Invoices are normally issued in Pounds Sterling, with the resale royalty calculated on the basis of the European Central Bank reference rate on the date of the sale.

### 7.3 Droit de Suite Scale

Charge	Portion of hammer price (in euros)
4%	Up to 50,000
3%	50,001 - 200,000
1%	200,001 - 350,000
½%	350,001 - 500,000
¼%	Over 500,000
	To a maximum of 12,500 euros

### Identification and Payment

8. (a) All works must be paid for within twenty-one days of the sale;

(b) No work can be taken away until the full purchase price has been paid with cleared funds;

(c) Buyers are reminded that they may require an export licence for some items, that they alone are responsible for obtaining any such licence, and that the sale is valid whether or not such licence is obtained;

(d) In completing the bidder registration and providing your credit card details you authorise MacDougall's, if they so wish, to charge the credit card given in part or full payment, including all fees, for items successfully purchased in the sale; and confirm that you are authorised to provide these credit card details.

**MacDougall Arts Ltd, 33 St James's Square, London SW1Y 4JS**

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Registered Company No. 5175060 in England & Wales



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9. If a buyer fails either to pay for, or take away, a work after a successful bid, MacDougall's shall be entitled at their absolute discretion to exercise one or more of the following rights:

- (a) To cancel the sale of that work;
- (b) To store the work or cause it to be stored at their own premises or warehouses elsewhere at the sole expense and risk of the buyer, and to release the work only after payment in full of the purchase price, accrued storage and haulage charges and all other costs incurred by MacDougall's in connection with the work.
- (c) To charge interest and storage charges. Interest is charged at 10% per annum, and storage charges at £50 per work per week. However, these charges will be waived if payment is received by the 21-day contractual deadline and the purchases are collected within four months;
- (d) With seven days' notice to the buyer to resell the work or cause it to be resold by public or private sale. Any deficiency in the purchase price attending such resale (after giving credit for any payment and after deducting full costs incurred in connection with the work) to be made good by the defaulting buyer, any surplus (after retention by MacDougall's of the premium) to be paid to the vendor;
- (e) Commence legal proceedings on behalf of the vendor to recover the purchase price and other expenses for that work;
- (f) Release the name and address of the buyer to the vendor to enable the vendor to commence the legal proceedings against the buyer;
- (g) MacDougall's shall in all circumstances be entitled to exercise a lien against any property belonging to the buyer or where the buyer has acted as an agent any property belonging to the buyer's principal which is in the possession of in the control of MacDougall's in respect of any debt howsoever arising owed by the buyer (or the buyer's principal) to MacDougall's notwithstanding that the value of the property exceeds the amount owed to MacDougall's;
- (h) MacDougall's may set off any sums owed by a buyer or its principal against any money owed by MacDougall's to the buyer or its principal not withstanding that MacDougall's may have in their possession or under their control property belonging to the buyer or its principal;
- (i) MacDougall's are entitled at their absolute discretion to apportion any monies received by or on behalf of the buyer against any sums owed by the buyer or its principal by or on behalf of the buyer against any sums owed by the buyer or its principal to MacDougall's;
- (j) Where purchases are not collected within one month from the date of the sale, whether or not payment has been made, we shall be permitted to remove the property to a third party warehouse at the buyer's expense, and only release the items after payment in full has been made of removal, storage, handling, and any other costs reasonably incurred, together with payment of all other amounts due to us.

10. Legal title shall not pass to the buyer until the work has been paid for in full.

11. If either of the parties involved in the Private Sale, based on the information provided to them by the Intermediary (MacDougall Arts), execute the sale directly with each other, MacDougall Arts preserves the right to charge the Seller and the Buyers a Commission on this transaction.

12. MacDougall Arts Ltd., its Directors, its staff, or its consultants may own or have a beneficial interest in a work being sold.

### **Catalogue and Other Descriptions**

13. All statements in the catalogues, advertisements or brochures of forthcoming sales are statements of opinion only. Illustrations in the catalogues, advertisements or brochures of forthcoming sales may not necessarily reveal imperfections in any work. The exact physical description of any work and the extent of any defect, restoration or repair to any work should be ascertained by intending buyers through inspection. Each buyer by making a bid for a work acknowledges that he has satisfied himself fully before bidding by inspection or otherwise as to all the sale conditions the physical condition of and description of the work including but not restricted to whether the work is damaged or has been repaired or restored.

14. MacDougall's reserve the full and absolute right to illustrate and photograph any work placed in its hands for sale, and to use these photographs and illustrations at any time at its absolute discretion (whether or not in connection with the gallery exhibition).

### **Guarantee**

15. Notwithstanding any other terms of these conditions, if within one year after the sale the buyer of any work gives notice in writing to MacDougall's that in his view the work is a counterfeit (i.e. an imitation created to deceive as to

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authorship, origin, date, or age); and within fourteen days after such notification the buyer returns the work to MacDougall's in the same condition as at the time of sale and free of third party claims; and by producing evidence, with the burden of proof to be upon the buyer, satisfies MacDougall Arts Ltd. that the work is a counterfeit, not reflected by the description in the catalogue; then the sale of the work will be rescinded and the purchase price of the same refunded. No work shall be considered a counterfeit by reason only of any damage and/or restoration and/or modification work of any kind including repainting or over-painting. This limited right of refund lies with the original buyer only and is not transferable to third parties.

### **Data Protection**

16. By agreeing to these Terms and Conditions, vendors, bidders, and buyers agree to the storage and processing of their personal information, including such as provided on the Client Registration Form, by MacDougall's. The data may be stored in countries which do not offer equivalent protection of personal information to that offered in the EU. The gallery exhibition may be subject to video and audio recording by MacDougall's. The Data Controller is MacDougall Arts Ltd.

### **English Law and Language**

17. All sales and related matters included within these Conditions of Sale shall be governed by and construed in accordance with the laws of England (regardless of where the work may have been received by MacDougall's) and the buyer submits to the exclusive jurisdiction of the English courts. Any dispute arising out of or in connection with this contract, including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration under the LCIA Rules, which Rules are deemed to be incorporated by reference into this clause. The number of arbitrators shall be one. The seat, or legal place, of arbitration shall be London. The language to be used in the arbitral proceedings shall be English. The governing law of the contract shall be the substantive law of England and Wales.

18. Where a translation of this agreement has been provided, it is agreed that the English language version shall be the governing one.

### **Payment methods:**

For payments by bank transfer, please direct payment in UK pounds sterling, unless private sale agreed in different currency, with all charges to be paid by sender, to: MacDougall Arts Client Trust Account No. 73662942, Sort Code 40-07-13, Swift code MIDLGB22, IBAN GB90MIDL40071373662942 HSBC Bank plc, 8 Victoria St., Westminster, London SW1H 0NJ.

### **Other payment methods:**

Personal UK cheque payments will have to clear before delivery of purchases. Banker's drafts and cash within certain limits may be accepted by arrangement.

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