

TERMS OF USE

OUR SERVICE

This site is operated by *Photo Auction Pty Ltd*, which has offices in Brisbane, QLD, Australia and offers art to all audiences in the world. *Photo Auction* acts as a service provider for artists looking to sell their artwork, and individuals interested in purchasing artwork, through an online art marketplace.

Artist	Artist is defined as the person who created the original artwork, has the right to sell the artwork, and is selling the artwork via the <i>Photo Auction</i> website.
Purchaser	Purchaser is defined as the person who has made a purchase on the <i>Photo Auction</i> website through an online payment.
Member	Member is defined as any person who has created an account on the <i>Photo Auction</i> website, whether they are an Artist or a Purchaser.
User	User is defined as any person, member or not, who browses or uses <i>Photo Auction</i> website for any purpose.
Content	Content is defined as data, text, images, usernames, graphics, photos, paintings, drawings, artworks, profiles or links or any other information whatsoever that is posted by <i>Photo Auction</i> or a member of the website.
Artwork	Artwork is defined as any piece of original work that is offered for sale on or sold via the website.
Copyright	Copyright protects the original expression of ideas, not the ideas themselves. It is free and automatically safeguards your original works of art from copying and certain other uses. For more information refer to the information sheets on Artists & Copyright, Infringement, or the Copyright Act 1968.
Original	Original is defined as a primary and original work, as opposed to any copy, reproduction or imitation. Copies and reproductions are not considered original for the purposes of these terms and conditions. Prints (photography and electronically altered works must be approved by <i>Photo Auction</i> before listing) must be limited editions, numbered and signed by the artist. Copyright must belong to the creator of an artwork in order for it to be considered original.

Service Region:	<i>Photo Auction</i> services and ships within the Australian community and destinations in overseas.
Age and Responsibility:	The user represents and warrants that they are of sufficient legal age to use the <i>Photo Auction</i> website and to create binding legal obligations for any liability they may incur as a result of the use of the <i>Photo Auction</i> website. The user agrees to be responsible for all of their use of the <i>Photo Auction</i> website (as well as for use of their username and password(s) by others, including without limitation, minors living with them). The user agrees to supervise all usage by minors of the website under their name or account.
Unauthorised Use:	The <i>Photo Auction</i> website must not be used for any illegal or unauthorised purpose. The <i>Photo Auction</i> website must not be hacked and/or any adaptations made to any aspect of the website. Posting of advertisements or links to any other websites, including but not limited to social networking sites, is not allowed without express written permission from <i>Photo Auction</i> .
Acceptable Content:	<i>Photo Auction</i> aims to promote hand-made, original artworks and only allows digitised or electronically produced or enhanced mediums, such as photographs or other works created and/or modified by a computer, on a discretionary basis. Artworks may include drawings, textiles, watercolours, paintings, mixed media, ink works, prints, etc. If artworks are framed, they must be packaged extremely carefully and labelled as fragile. Artworks must be unique or sold as one in a series of limited edition artworks and clearly titled.
Unacceptable Content:	<p>Users posting content on the <i>Photo Auction</i> site must not infringe any copyright and/or intellectual property rights of any person, entity, organization, trademark or other. Users must not misrepresent content, including artwork for sale, in the picturing and description of that content. <i>Photo Auction</i> does not accept content that is obscene in any way, pornographic, indecent, inflammatory, defamatory or racist to any person or group of people. Artistic nudes are accepted at the discretion of <i>Photo Auction</i>. The content posted on the <i>Photo Auction</i> website must not be fraudulent or illegal in any manner nor contain Trojan horses, worms, viruses, or any other programming that may interfere, disrupt or corrupt the smooth operations of the entire <i>Photo Auction</i> website, including all databases. <i>Photo Auction</i> encourages all users to the site to report any inappropriate content via the Contact Us page. <i>Photo Auction</i> has the right but has no obligation, to remove any content posted at its absolute discretion. <i>Photo Auction</i> does not condone the posting of inappropriate content and makes a concerted effort to remove such content as soon as possible. Any unlawful, misrepresented or offensive content posted on the website is the sole responsibility of the user/member that posts such content. Users of the site understand that exposure to inappropriate content may occur and browsing of the website is at the user's own risk.</p> <p>Artists agree to respect <i>Photo Auction</i> marketplace and not attempt to direct traffic away from <i>Photo Auction</i> to make personal contact or sales outside of <i>Photo Auction</i>. This includes not posting information in artist profiles or artwork descriptions which include:</p> <ul style="list-style-type: none"> • Personal websites and/or email addresses • Personal social media accounts on platforms such as Facebook, Instagram, Twitter, Pinterest, Tumblr etc. • Mentioning gallery representation and/or other establishments where works can be purchased. • Comments intended to encourage direct contact outside of <i>Photo Auction</i> such as “visit my Facebook account or personal website to see more of my artwork”.

	<ul style="list-style-type: none"> Watermarks on profile images, cover images or artwork images that are not in the bottom left or right corner of the artwork image and contain more information than the copyright symbol and the artist's first and last name.
Prices & Sales practice:	Prices of artworks shown on the <i>Photo Auction</i> website are set at the discretion of the Artist. By using <i>Photo Auction</i> , Artists are required to complete all sales on <i>Photo Auction</i> which come from a <i>Photo Auction</i> lead. This includes artist to collector introductions, <i>Photo Auction</i> initiated exhibitions and leads to an Artist directly. Best practice for artists who receive direct enquiries is to ask where the potential buyer discovered their artwork. In cases where the buyer advises <i>Photo Auction</i> then the artist should direct the buyer to complete the transaction on <i>Photo Auction</i> .
Taxation responsibility:	You will at all times be solely responsible for reporting and remitting any tax liabilities arising out of the sale of your art together with any potential interest or penalties that any tax authority may levy as a result of non-compliance. Each party is responsible for their own taxes associated with each transaction and will account for any taxes imposed by governments or governing authorities, and related accounting or audit requirements arising out of, as a result of, incidental to, or in connection with obligations under this agreement. We recommend that you consult with your tax advisor as to the application of taxes for you, as the seller of the art. This may include GST and other transactional taxes. <i>Photo Auction</i> will not collect or pay taxes on your behalf as <i>Photo Auction</i> is merely acting as an agent in facilitating the sale of your product to the customers. You authorize <i>Photo Auction</i> to deduct the base amount (which includes <i>Photo Auction</i> 's margin for facilitation services, including tax where applicable) from the sales proceeds for your artwork before distributing your margin (which will include tax where applicable). The amounts distributed to you will be deemed to be inclusive of any taxes, if applicable.
Trademark:	The <i>Photo Auction</i> logo is a trademark of <i>Photo Auction</i> . Use of the <i>Photo Auction</i> logo is not authorised without express written permission from <i>Photo Auction</i> .
Copyright:	All content on the <i>Photo Auction</i> website is copyright of either <i>Photo Auction</i> or the Artist. Content must not be downloaded or used without express written permission from <i>Photo Auction</i> , or the Artist where the content is their own work. The Artist retains all copyright for physical artworks (which includes reproduction rights) even when the physical property is transferred to the Purchaser. If the Purchaser wishes to reproduce the Work, this must be separately negotiated with the Artist.
Refusal & Termination of Service:	<i>Photo Auction</i> reserves the right to refuse service to anyone at any time and at its absolute discretion. <i>Photo Auction</i> reserves the right to modify, terminate or suspend member accounts, at any time, at its discretion, and without prior notice. <i>Photo Auction</i> reserves the right to terminate the <i>Photo Auction</i> service at any time and at its absolute discretion without prior notice. Upon termination, any rights granted by the Artist to <i>Photo Auction</i> under this agreement immediately reverts to the Artist.
Warranties:	<i>Photo Auction</i> offers an "as is" service. <i>Photo Auction</i> does not supply any warranties in relation to content represented on the <i>Photo Auction</i> website.
Disputes & Release:	<i>Photo Auction</i> is released from any claims arising from disputes between users and members of the website, including disputes between Artists and Purchasers, between Artists and Artists, and between Purchasers and Purchasers.
Liability:	The user assumes all responsibility and risk for use of the <i>Photo Auction</i> website including and without limitation any of the content or information contained therein. <i>Photo Auction</i> accepts no liability for any failure to comply with these Terms and

Conditions of Use where such failure is due to circumstances beyond its reasonable control.

Photo Auction does not represent or guarantee that the *Photo Auction* service or the *Photo Auction* website, or any other website that is accessible using a hyperlink from this website will be current, or free from errors or viruses. *Photo Auction* does not represent or guarantee that access to the *Photo Auction* service or these websites will be uninterrupted. The user acknowledges that the *Photo Auction* service or the *Photo Auction* website may be affected by outages, faults or delays. Such outages, faults or delays may be caused by factors, including but not limited to technical difficulties with the performance or operation of *Photo Auction*'s or another person's software, equipment or systems, traffic or technical difficulties with the Internet or infrastructure failures. *Photo Auction* does not warrant that any members' uploads to this website will be protected against loss or misuse or alteration by third parties. *Photo Auction* does not warrant that all uploaded content will be available on our website. If *Photo Auction* elects in its sole discretion to make available content on its website, it does not warrant that it will be available within a certain time frame.

Photo Auction reserves the right to cancel and refund any sale made through the *Photo Auction* website. It is the responsibility of the user to ensure that they are not exposed to viruses or any other code of a destructive nature. *Photo Auction* does not accept responsibility for any loss or damage, however, caused (including through negligence), that users may directly or indirectly suffer in connection with their use of this website or any linked website, nor does it accept any responsibility for any such loss arising out of a user's use of or reliance on information contained on or accessed through this website. To the extent permitted by law, any condition or warranty that would otherwise be implied into these Terms and Conditions of Use is hereby excluded. Where legislation implies any condition or warranty, and that legislation prohibits us from excluding or modifying the application of, or our liability under, any such condition or warranty, that condition or warranty will be deemed included but our liability will be limited for a breach of that condition or warranty to one or more of the following:

- if the breach relates to goods:
- the supply of equivalent goods;
- the payment of the cost of having the goods repaired;
- if the breach relates to services:
- the supplying of the services again;
- the payment of the cost of replacing the goods or of acquiring equivalent goods;
- the payment of the cost of having the services supplied again
- This disclaimer does not attempt or purport to exclude liability arising under statute if, and to the extent, such liability cannot be lawfully excluded.

Disclaimer: