



# PRESTON HALL

## TERMS AND CONDITIONS OF SALE

This auction is presented by Preston Hall Gallery (“Preston Hall” or “the auctioneer”). The auction and all private sales are conducted pursuant to these Terms and Conditions of Sale (“Terms and Conditions”) as well as any applicable federal, state and local laws. By registering and bidding in an auction conducted by Preston Hall, bidders agree to be bound by these Terms and Conditions. This applies to all bidders, whether bidding by telephone, via an agent acting on their behalf, by written or telephone absentee bid instruction, or through a live Internet connection. These are the complete and only Terms and Conditions by which all property is offered for sale. All prospective buyers should read these Terms and Conditions before bidding. Preston Hall retains the right to bar any bidder from participating in any auction and to exclude or reject any bid.

### 1. REGISTRATION

All bidders must register their name, email address, permanent street address (P.O. Boxes are not acceptable), and telephone and/or fax number before the auction. All bidders must meet certain qualifications to bid and must be in good standing of the auction gallery. In addition, bidders may be required to present a valid and chargeable Visa or MasterCard before being approved to participate in the auction.

### 2. ACCEPTANCE OF TERMS

Bidding on any item, whether in person, by phone, by absentee bid or via a live Internet auction indicates the bidder’s agreement to be bound by these Terms and Conditions. Any right of bidder under this agreement shall not be assignable and shall only be enforceable by the original buyer. The rights and obligations of the parties shall be governed by the laws of the state of Texas. All bidders submit to the personal jurisdiction of the state and federal courts in Texas. By placing a bid on any item (lot) in a sale conducted by Preston Hall, either in person, by phone, absentee bid or via the Internet, buyer/bidder signifies that he or she has examined the item as fully as he or she desires or deems necessary or prudent or that he or she has chosen, for whatever reason, not to examine it. Bidders who bid from off\_site or via the Internet, acknowledge that they may not be able to inspect an item as well as if they had examined it in person prior to the auction. If a buyer/bidder requires absolute certainty in all areas of authenticity, and the results of his or her evaluation leave any uncertainty in his or her mind whatsoever, we strongly recommend that the prospective buyer/bidder have an expert examine the lot on his/her behalf or, if that is not possible, do not bid on the item(s) in question.

### 3. TERMS OF SALE.

Announcements made the day of auction take precedence over any previous communication. The auctioneer reserves the right to withdraw any lot at any time before its final sale and to reject any bid for any reason. The highest bidder

for each lot acknowledged by the auctioneer shall be the “buyer.” If any dispute arises as to any bidding, or between two or more bidders, at the sole discretion of the auctioneer, the successful bidder will be determined or the disputed lot shall be put up again at the last undisputed bid and resold. In the event of a tie bid, the earliest bid received or recognized wins. Bids properly offered, whether by Internet, telephone, fax, or by any other means of bidding, may occasionally be missed or go unrecognized; in such cases, Preston Hall may declare the recognized bid accepted as the winning bid, regardless of whether a competing bid may have been higher.

**4. EXECUTION OF CERTAIN BIDS**

Preston Hall cannot be responsible for your errors in bidding, so carefully check that every bid is entered correctly. When identical mail or fax bids are submitted, preference is given to the first received. To ensure the greatest accuracy, your written bids should be received at least two business days before the auction start. Preston Hall is not responsible for executing mail bids or FAX bids received on or after the day the first lot is sold; nor is Preston Hall responsible for proper execution of bids submitted by telephone, mail, FAX, e-mail, Internet, or in person once the auction begins.

**5. PRESTON HALL GALLERY AS AGENT**

Preston Hall acts as an agent for the seller, unless otherwise indicated in this catalog or at the time of auction. On certain occasions, Preston Hall or its principals may own a lot, in which case we will act in a principal capacity as a consignor, or may have a legal, beneficial or financial interest in a lot as a secured creditor or otherwise. Preston Hall Gallery has the right to sell certain unsold and/or previously unoffered items after the close of the auction. Such lots shall be considered sold during the auction and all of these Terms and Conditions shall apply to such sales, including but not limited to the Buyer’s Premium, return rights, and disclaimers.

**6. ALL PROPERTY SOLD “AS IS”**

All items (lots) are sold “as is and where is.” Preston Hall Gallery, its agents, affiliates, employees, and the consignor (seller) do not warranty any lot to be merchantable or to be suited for any purpose and they do not assume risk, liability or responsibility for any person as to AUTHENTICITY, GENUINENESS, CULTURE, SOURCE, ORIGIN, ATTRIBUTION, PERIOD, PURPOSE OR MEASUREMENTS OF ANY LOT. These conditions may not be altered or modified except by an instrument in writing, signed by Preston Hall and the buyer. All sales are final except as noted in Paragraph 16, AUTHORSHIP WARRANTY & RIGHT OF RECISSION.

**7. CATALOG DESCRIPTIONS AND CONDITION REPORTS**

Condition Reports for any given lot, if available, may be found on Live Auctioneers. Condition Reports are provided as a courtesy and are based solely on opinion and observation of Preston Hall Gallery and its’ staff and no warranty

is expressed or implied concerning an item's quality, rarity, importance or merchantability. As well, they reflect expectations subject to the given age of the given lot. Condition Reports carry no guarantee, implied or otherwise, of their correctness. Existence of a Condition Report for a given lot does not presume that all aspects of a particular lot have been analyzed. While every reasonable effort is made to respond to all requests for condition, due to the volume of such requests, Preston Hall cannot guarantee that all requests will receive a response. Should a prospective bidder have any questions concerning the condition of a particular lot prior to the auction, and should those questions remain unanswered prior to bidding, Preston Hall Gallery strongly recommends that a bidder not bid on the item or items in question. Every reasonable effort is made to ensure the correctness of all catalog descriptions, however, the knowledge of Preston Hall in relation to each lot is often partially dependent on information provided to us by the seller, and Preston Hall is not able to and does not carry out exhaustive due diligence on each and every lot. Prospective bidders/buyers acknowledge this fact by bidding accordingly and accept responsibility for carrying out inspections to satisfy themselves as to the lots they are interested in purchasing. From time to time, catalog changes and/or addendums will be issued prior to an auction Preston Hall makes every effort to upload these changes to our online catalog, however prospective bidders are encouraged to ask about any such changes prior to bidding.

#### **8. DISCLAIMERS AND EXCLUSIONS**

Preston Hall does not guarantee clocks, watches, mechanical banks, scientific instruments, electric lamps, music boxes, automated musical instruments, automatons, and other mechanical or electrical items or devices to be in working condition. Preston Hall disclaims all warranties of authenticity of authorship for all lots consisting of works of fine art by or attributed to artists, authors, or persons living before 1870 and, when no artist, author, or person is so identified, works attributed to a period which includes any date prior to 1870 and all warranties relating to the identification of the periods or dates of execution of property which may be proven inaccurate. Preston Hall does not guarantee the names or patterns of any rugs, Oriental or otherwise. All dimensions given in the catalog are approximate and are not guaranteed. All weights, grades, and sizes listed are approximate and are not guaranteed.

#### **9. CONDUCT OF THE AUCTION**

Unless otherwise indicated, each lot is offered subject to a reserve, which is the confidential minimum selling price agreed upon by Preston Hall and the seller. The reserve is usually set below the estimated range, and typically below the low estimate. The auctioneer has discretion at any time to refuse any bid, withdraw any lot, re-offer a lot for sale (including after the fall of the hammer) if auctioneer believes there may be an error or dispute and take such other action as auctioneer deems reasonably appropriate. The auctioneer will commence and advance the bidding at levels and in increments considered appropriate (see also *BIDDING*

*INCREMENTS*). In order to protect the reserve on any lot, the auctioneer may place one or more bids on behalf of the seller up to the reserve without any indication of doing so, either by placing consecutive bids or bids in response to other bidders. The sale will be conducted in US dollars and payment is due in US dollars. Subject to the auctioneer's reasonable discretion, the highest bidder accepted by the auctioneer will be the buyer and the striking of the hammer marks the acceptance of the highest bid and the conclusion of a contract for sale between the seller and buyer. Risk and responsibility for the lot passes to the buyer as set forth in Section 20 below. If a lot is not sold, the auctioneer will announce that it has been "passed", "withdrawn", "returned to owner", "bought-in", or went "unsold".

**10. BUYER'S PREMIUM**

Buyer's Premium for all auctions, unless otherwise noted: Preston Hall will collect and retain from the Buyer, as additional commission, a premium equal to 20% of the Sale Price of each lot up to and including \$200,000, plus 12% of the amount by which the Sale Price exceeds \$200,000. The Buyer's Premium on property purchased on Live Auctioneers (via the Internet) will be in the amount equal to 21% of the final bid price up to and including \$200,000, plus 14.5% of the final bid over \$200,000.

**11. PAYMENT FOR PURCHASES**

Please remember that in addition to the cost of an item, bidders/buyers will have to pay a Buyer's Premium (see Paragraph 10), shipping charges, and any and all applicable state and local taxes, unless appropriate permits are on file with the auctioneer. Preston Hall will email successful buyers/bidders an invoice upon completion of the auction. Payment details and corresponding contact information will be provided at that time. Preston Hall accepts the following forms of payment: cash (not to exceed \$10,000 for any single transaction), personal or traveler's check, bank or cashier's check, money orders, bank wire transfers, Visa or MasterCard. MasterCard and Visa accepted for purchases \$25 and over, but not for vehicles. Payments by Visa or MasterCard are limited to a maximum of \$5000 per auction with balances over that amount to be paid in cash or certified funds. Preston Hall reserves the right to hold property until checks clear (including cashier's checks). When paying by check, checks must be drawn on a U.S. bank, dated, and bankable on the day of purchase. Checks will not be held for any period of time unless prior arrangements have been made in writing between Preston Hall and the purchaser (bidder/buyer). Internet purchases are not available for pickup until the first weekday following the sale.

**12. RISK OF LOSS**

In the event that Preston Hall cannot deliver an item to a buyer due to loss from fire, theft, or any other reason, the Gallery shall only be liable for the return of any deposits or payments made by the purchaser.

**13. AUCTION PRE-SALE ESTIMATES AND RESERVES**

A range of estimates may be given on lots with a low and high estimate. Estimates should not be relied upon as a prediction of the actual selling price of any lot but are merely an opinion rendered by Preston Hall as to the possible value range within which an item (lot) might be expected to sell. The actual selling price of a lot may be higher or lower than the estimates.

**14. AUTHORSHIP WARRANTY AND RIGHT OF RECISSION**

Notwithstanding any of the preceding conditions, if within 14 days of the date of sale of any lot (excluding those designated with any qualifying phrase, such as “Attributed to”, “After”, “School of”, “Manner of”, “Studio of”, “Circle of”, or “Bears Signature”), the original purchaser (a) notifies us in writing that the identification of authorship (as defined in our *ADDITIONAL TERMS AND CONDITIONS: FINE ART*) of such lot is not substantially correct based on a fair reading of the catalog, including the terms of glossary contained therein, and (b) within 10 days after such notice returns the lot(s) to us in the exact same condition as at the time of sale, and (c) establishes the allegation in the notice to our satisfaction then the sale of such lot will be rescinded and the original purchase price will be refunded. Nothing in this paragraph shall be construed as an admission by us of any representation of fact, expressed or implied, obligation or responsibility with respect to any lot. Consignors agree to refund Preston Hall any and all payments made to consignors for any property returned to Preston Hall under the terms of its rescission-of-sale policy.

See also *ADDITIONAL TERMS AND CONDITIONS: FINE ART*.

**15. INSPECTION OF PROPERTY**

If a bidder is unable to examine an item in person or if the item in question is not available for previewing, they are responsible for obtaining a Condition Report for any item(s) they are interested in bidding on and an Auction Addendum, if any has been issued, prior to bidding.

**16. ABSENTEE AND TELEPHONE BIDDING**

Absentee bids are accepted via mail, fax, or email by completing and submitting an absentee bidder form. However you choose to submit your bid, tell us the maximum amount you are willing to pay. A member of our staff will execute your bid for you when that lot comes up for sale. If the bidding is competitive, we will keep you in the running until your maximum bid amount is reached. If you are the successful bidder for an item that does not reach your maximum bid, *we will not charge you your full bid amount*. We will try to purchase your lot on your behalf at the lowest price possible. We do not open bidding with your left bid, rather we will bid up to the amount you have left only if necessary. Absentee bidders unknown to us may be required to submit a current bank “letter of credit” prior to the auction, or, using a credit card, as a deposit with Preston Hall. Said deposit will equal 25% of the absentee bid. Bidders can arrange in advance to phone bid and to have one of our

staff members call you when a particular lot comes up for sale. You should plan to be at the number you give us during the day of the sale and we will make every effort to reach you at that number. When we reach you, a member of our staff will relay the asking price as the bidding proceeds, and you can tell us whether or not you want to continue bidding. If you are the winning bidder, you will be informed at the time the hammer price is determined. Bidding via the telephone is available on a first come, first served basis for those lots with a low estimate of \$500 or greater. If you reserve a telephone line on the absentee bid form, please indicate that you wish to bid via this option by checking "I WISH TO BID BY TELEPHONE" and we will contact you to arrange this option prior to the auction. You must arrange telephone bidding no later than the day before the auction. Absentee and telephone bidding is offered as a service to our customers. Prospective bidders shall not hold the auctioneer or any of our staff responsible for any errors or failures in executing bids.

**17. INTERNET BIDDING**

Live Internet bidding is available on Live Auctioneers ([www.LiveAuctioneers.com](http://www.LiveAuctioneers.com)) and is convenient, seamless, and easy to use. CREDIT APPROVAL FOR INTERNET BIDDERS: Internet bidders are required to provide valid name, address, telephone number, and email address and at times a U.S. bank reference or credit card (with corresponding expiration date and CVV/CVC number) to Live Auctioneers in order to be approved for bidding. Potential bidders not meeting these criteria will be approved on a case-by-case basis and only after contacting Preston Hall regarding the status of their pending application.

**18. SHIPMENT OF PURCHASES**

Preston Hall is not responsible for the shipment of items. All shipping and related costs are the responsibility of the purchaser. Successful bidders who require an item or items to be shipped may request a list of local shipping and moving companies. Preston Hall Galleries has no affiliation with any of these companies and does not endorse or recommend any of them. Bidders hire at their own risk. Prospective bidders are encouraged to contact their shippers for packing and transport quotes prior to bidding, and should be aware that these costs may include fees for pick-up, materials, packing, insurance and transport.

**19. BUYER'S RESPONSIBILITY**

On the fall of the auctioneer's hammer, title to the offered lot will pass from Consignor (seller) to the purchaser, subject to all the conditions set forth herein, and purchaser thereupon a) assumes full risk and responsibility therefore, b) will sign a confirmation of purchase thereof, and c) will thereupon pay the full purchase price therefore or such part as we may require. "Purchase Price" shall include the hammer price plus buyer's premium and any and all applicable sales, use, excise, or other taxes. Unless otherwise agreed, a buyer is required to pay for a purchased lot immediately following receipt of an auction invoice from Preston Hall Gallery.

**20. NONPAYMENT OF PURCHASES**

If any applicable conditions herein are not met or complied with by the purchaser in addition to other remedies available to us and the consignor (seller) by law, including without limitation the right to a) hold the purchaser liable for the total purchase price, we at our option may either cancel the sale, retaining as liquidated damages all payments made by the purchaser or b) resell the property at public auction, and the purchaser shall be liable for any deficiency, costs, including handling charges, the expenses of both sales, or commission on both sales at option, payment will not be deemed to have been made in full until we have collected funds represented by checks, or, in the case of bank or cashier's checks, we have confirmed their authenticity. As between Preston Hall Gallery and the consignor (seller), if the successful bidder does not pay for the property, collection procedures shall be the responsibility of the consignor and not Preston Hall.

**21. FAILURE TO COLLECT AUCTION PURCHASES**

Buyers must arrange for collection of a purchased lot within five business days of the date of the auction. Purchased lots are at the buyer's risk, including the responsibility for insurance, from the earlier to occur of 1) the date of collection or 2) five business days after the auction. A storage fee will be charged if merchandise is left longer than two weeks of \$10.00 per lot per day. If purchased property is left longer than 30 days it will be considered abandoned. If a purchased lot is paid for but not collected within 30 days of the auction (i.e., it has been deemed abandoned), the buyer authorizes Preston Hall Gallery, upon notice, to arrange a resale of the item by auction or private sale, with estimates and a reserve set at Preston Hall's reasonable discretion.

**22. EXPORT, IMPORT AND ENDANGERED SPECIES LICENSES AND PERMITS**

Prospective buyers/bidders are advised that certain licenses and/or permits may be required in order to export an item from the United States or to import it to another country. Prospective buyers should make their own inquiries about such licenses and permits prior to bidding and are further advised that they should familiarize themselves with relevant export and import regulations of the countries where they may be shipping to or from. It is solely the buyer's responsibility to comply with these laws and to obtain any necessary export, import and endangered species licenses or permits. Failure to obtain a license or permit will not justify the cancellation of a sale.

**23. LIMITATION OF LIABILITY**

In no event will the liability of Preston Hall Gallery to any purchaser with respect to any item (or auction lot) exceed the purchase price actually paid by such purchaser for such item. Preston Hall Gallery and the seller shall not be liable to the buyer for any loss or damage beyond the refund of the purchase price referred to above, whether such loss or damage is characterized as direct, indirect, special, incidental or consequential, or for the payment of interest on the Purchase Price to the fullest

extent permitted by law. Preston Hall Gallery will not refund any shipping and/or handling fees paid to a third party by the purchaser. All warranties other than the Authorship Warranty (see Paragraph 15) and any that may be contained in the *ADDITIONAL TERMS AND CONDITIONS: FINE ART* section, express or implied, including any warranty of satisfactory quality and fitness for purpose, are specifically excluded by Preston Hall Gallery and the seller to the fullest extent permitted by law.

**24. COPYRIGHT**

Regarding fine art reproduction rights and copyrights held by artists and/or their estates, trusts, etc., Preston Hall Gallery and the seller make no representations or warranties that the buyer of a lot will acquire any copyright or any other reproduction rights.

**25. LAW AND JURISDICTION**

The parties' respective rights and obligations under these Terms & Conditions of Sale shall be governed and interpreted by these terms and conditions and by the laws of the State of Texas (excluding the laws applicable to conflicts or choice of law). The buyer/bidder agrees that any suit for the enforcement of this agreement may be brought, and any action against Preston Hall Gallery in connection with the transactions contemplated by this agreement shall be brought and heard, and/or filed in the appropriate forum in the city and county of Dallas, in the courts of the State of Texas or any federal court sitting therein. The bidder/buyer consents to the nonexclusive jurisdiction of such courts and waives objections that it may now or hereafter have to the venue of any such suit.

**26. RESOLUTION OF DESPUTES:**

Purchaser agrees that any dispute arising from or in any manner connected with their purchase shall be submitted to arbitration under the rules of the American Arbitration Association. All parties shall bear their own costs, including attorney's fees in the presentation of any arbitration.

**ADDITIONAL TERMS AND CONDITIONS: FINE ART**

**FINE ART TERM I: WARRANTY:**

No warranty exist for: a. authorship of any paintings, drawings or sculpture created prior to 1870; or b. any catalog description where it was specifically mentioned that there is a conflict of specialist opinion on the authorship of a lot; or c. authorship which on the date of sale was in accordance with the then generally accepted opinion of scholars and specialists, despite the subsequent discovery of new information, whether historical or physical, concerning the artist or craftsman, his students, school, workshop or followers; or d. the identification of periods or dates of execution which may be proven inaccurate by means of scientific processes not generally accepted for use until after publication of the catalog, or



which were unreasonably expensive or impractical to use at the time of publication of the catalog. The authenticity of signatures, monograms, initials or other similar indications of authorship is expressly excluded as a controlling factor in determining whether a work is a counterfeit under the meaning of these Terms and Conditions of Auction.

**FINE ART TERM II: GLOSSARY OF TERMS:**

Terms used in this catalog have the following meanings:

1. **BY THOMAS MORAN** In our opinion, the work is by the artist.
2. **ATTRIBUTED TO THOMAS MORAN** In our opinion, the work is likely of the period of the artist and may be whole or in part the work of the artist.
3. **STUDIO, (CIRCLE OR WORKSHOP) OF THOMAS MORAN** In our opinion, the work is of the period and closely relates to his style.
4. **SCHOOL OF THOMAS MORAN** In our opinion, the work is by a pupil or a follower of the artist.
5. **MANNER OF THOMAS MORAN** In our opinion, the work is in the style of the artist and maybe of a later period.
6. **AFTER THOMAS MORAN** In our opinion, this work is a copy of the artist.
7. **ASCRIBED TO THOMAS MORAN** In our opinion, this work is not by the artist, however, previous scholarship has noted this to be a work by the artist.
8. **SIGNED (OR DATED)** The work has a signature (or date) which is in our opinion is genuine.
9. **BEARS SIGNATURE (OR DATE)** The work has a signature (or date) which in our opinion may not be authentic. Please note that all statements in this catalog regarding authorship, attribution, origin, date, age, provenance and condition are statements of opinion and are not treated as a statement of fact.

**FINE ART TERM III:** The catalog descriptions are provided for identification purposes only. Bidders who intend to challenge the description of a lot must notify Auctioneer in writing within ten (10) days of the Auctions conclusion. In the event Auctioneer cannot deliver the lot or subsequently it is established that the lot lacks title or the description is materially incorrect, or other transfer or condition issue is claimed, Auctioneers liability shall be limited to rescission of sale and refund of purchase price. In no case shall Auctioneers maximum liability exceed the successful bid on that lot, which bid shall be deemed for all purposes the value of the lot. After one year has elapsed from the close of the Auction, Auctioneers maximum liability shall be limited to any commissions and fees Auctioneer earned on that lot.

**FINE ART TERM IV:** Any claim as to authorship, provenance, authenticity, or other matter under the remedies provided in the *Fine Arts Terms and Conditions*

or otherwise must be first transmitted to Auctioneer by credible and definitive evidence within the applicable claim period. Auctioneer, in processing the written claim, may require the Purchaser to obtain the written opinion of two recognized experts in the field who are mutually accepted by Auctioneer and Purchaser. Upon receipt of the two opinions, Auctioneer shall determine whether to rescind the sale. The Purchaser's claim must be presented in accord with the remedies provided herein and is subject to the limitations and restrictions provided (including within the described time limitations). Regardless of Purchaser's submissions there is no assurance after such presentment that Auctioneer will validate the claim. Authentication is not an exact science and contrary opinions may not be recognized by Auctioneer. Even if Auctioneer agrees with the contrary opinion of such authentication and provides a remedy within these Terms and Conditions or otherwise, our liability for reimbursement for bidder's third party opinions shall not exceed \$200. The right of rescission, return, or any other remedy provided in these Terms and Conditions, or any other applicable law, does not extend to authorship of any lot which at the date of Auction was in accordance with the then generally accepted opinion of scholars and specialists, despite the subsequent discovery of new information, whether historical or physical, concerning the artist, his students, school, workshop or followers. Purchaser by placing a bid expressly waives any claim or damage based on such subsequent information as described herein. It is specifically understood that any refund agreed to by the Auctioneer would be limited to the purchase price.

**FINE ART TERM V:** Provenance and authenticity, excluding those as described in "*FINE ART TERM II: GLOSSARY OF TERMS*", are guaranteed by neither the consignor nor Auctioneer. While every effort is made to determine provenance and authenticity, it is the responsibility of the Bidder to arrive at their own conclusion prior to bidding.

**FINE ART TERM VI:** On the fall of Auctioneer's hammer, Buyers of Fine Arts and Decorative Arts lots assume full risk and responsibility for lot, including shipment by common carrier or third-party shipper, and must provide their own insurance coverage for shipments.

**FINE ART TERM VII:** Statements by Preston Hall regarding the condition of objects are for guidance only and should not be relied upon as statements of fact, and do not constitute a representation, warranty, or assumption of liability by Preston Hall. All lots offered regardless of a condition report are sold "AS IS".