INTRODUCTION

These Conditions of Business form the basis of Bonhams’ agreement with the Seller. Please read them carefully and ask for an explanation of anything that you do not understand. Please note that Online Sales are subject to our Online Conditions of Business – see Paragraph 18, as are those Hybrid Sales where in-person inspection is not made available.

Under the terms of this agreement we act as your agent. This means you will be responsible for all statements and representations made by us on your behalf and you will be the principal to the Contract for Sale with the Buyer of the Lot and responsible for breaches of that contract. For that reason you are required to give us certain warranties and undertakings about the Lot and yourself in paragraph 4, and you must ensure that what you tell us about the Lot and yourself (and the owner if you are representing the owner) is correct and complete. You must check the Lot Entry (see paragraph 6.3) if it is made available to you prior to the Sale. As your agent, we are not under any obligation, either to you or to any Buyer, under the Contract for Sale which you make through us. Our liability to you is governed by this agreement, which contains limitations of that liability, in particular set out in clauses 1.3.4, 2 and 16.

For Live and Hybrid Sales, we will offer the Lot for sale on the terms of the Contract for Sale at Appendix 1 below. For Online Sales, the relevant Contract of Sale can be found on our website under our Terms and Conditions. The way in which we conduct auctions are explained in our Notice to Bidders as set out in the catalogue. The Contract for Sale will govern your relationship with any Buyer. We also have our own agreements with any Buyer, our Buyer’s Agreements.

Definitions and a Glossary of words and phrases used by us in these Conditions of Business and these associated documents are included at the end of these Conditions. Words and phrases that appear in the List of Definitions are printed in italics.

We will provide you with copies of all documents relevant to our agreement before you enter the agreement with us. You should familiarise yourself with them because by entering into an agreement, you consent to our selling the Lot on your behalf in accordance with our Notice(s) to Bidders and on the terms of the Contract for Sale and also consent to our entering into our Buyer’s Agreements with any Buyer.

You should in particular be aware of the Guarantee contained in the Buyer’s Agreements, which we give personally to the Buyer. Subject to the terms of the Guarantee, we undertake to rescind the sale of the Lot at the Purchase Price any Forgery (and, in the case of Stamps, Lots which do not comply with their Contractual Description, and in the case of Books, Lots which do not contain text or illustrations) and, in this agreement with you, you agree to reimburse us for our costs and expenses in performing this Guarantee (see paragraph 14).

All of the documents referred to above are subject to alteration by us before the sale of your Lot, but we will only alter them in a way which is reasonable as between you and us.

DATA PROTECTION – USE OF YOUR INFORMATION

Where we obtain any personal information about you, we shall only use it in accordance with the terms of our Privacy Policy (subject to any additional specific consent(s) you may have given at the time your information was disclosed). A copy of our Privacy Policy can be found on our Website, bonhams.com or requested by post from Customer Services Department, Suite 2001, One Pacific Place, 88 Queensway, Admiralty or by email from info@bonhams.com

1. OUR OBLIGATIONS

1.1 Subject to any express written agreement we may make to provide additional (or fewer) services, we will:

1.1.1 if you bring the Lot in to us for examination or if we agree to examine it elsewhere, carry out the limited examination of the Lot which we describe in paragraph 1.2.1;

1.1.2 based on any information you give to us about the Lot or we may have obtained about it, (including as a result of any Standard Examination we have carried out) publish a brief Entry about the Lot in the Catalogue or e-catalogue for the Sale in which the Lot is to be offered on the basis explained in paragraph 1.3 and paragraph 6;

1.1.3 agree a Reserve, or that the Sale will be Without Reserve, in accordance with paragraph 7;

1.1.4 take delivery of and store the Lot in accordance with paragraph 8;

1.1.5 include the Lot in any pre-sale viewings (whether for a Live, Hybrid or Online Sale) or any other viewings as Bonhams may think fit and enter the Lot in the Sale;

1.1.5.1 produce a Condition Report in respect of the Lot where requested to do so by a potential Buyer if we think it appropriate to do so;

1.1.6 conduct the Sale in accordance with paragraph 11;

1.1.7 accept payment from the Buyer of the Purchase Price and hold the Sale Proceeds for you in accordance with paragraph 12;

1.1.8 deal with a Lot sold at the Sale in accordance with paragraph 12 (including exercising on your behalf and for both your and our benefit all and any of your rights and powers to collect payment of the Purchase Price);

1.1.9 deal with and sell any Lot unsold at the Sale in accordance with paragraph 13.

1.2 Examinations

1.2.1 When you consign a Lot for Sale by us at any saleroom, we will carry out a Standard Examination of the Lot. The Standard Examination that we agree to carry out under this agreement is a visual examination of the Lot by a non-specialist member of our staff. The degree of skill and care exercised by us in such a Standard Examination will be proportionate to an examination of this limited nature. Such examinations will not involve investigation or research into the Lot, nor tests on it.

1.2.2 If you would like your Lot to be examined by a specialist on the Lot or for us to carry out investigation, research or tests on the Lot, we will endeavour to arrange this. We may require you to pay additional Expenses or a separate fee for arranging this, which we will agree with you.

1.2.3 We may also carry out for our own benefit our own investigations, research, tests, or refer to specialist(s) or conduct other examinations as we see fit in relation to third parties in the exercise of our due diligence, (possibly without reference to you) but we are under no obligation whatsoever to do so. If we choose to do so, you do not have to pay for it and it will not form part of any Standard Examination or Specialist Examination.

1.3 Descriptions and Estimates

1.3.1 When providing a Standard Examination, we will normally provide an Estimate. An Estimate is only an expression of our opinion of the range within which we think the Hammer Price for the Lot at the Sale is likely to be. It is not an estimate of value. It does not take account of Buyer’s Premium payable. Lots can in fact sell for Hammer Prices below and above the Estimate. Any Estimate should not be relied on as an indication of the actual selling price or value of a Lot.

1.3.2 Anything stated or represented by us or on our behalf in any Description in relation to the authorship, attribution, condition, provenances, history, background, authenticity, style, period, age, suitability, quality, roadworthiness, origin, value, or future selling price (including the Hammer Price) of any Lot or by any Estimate given in relation to it, whether in the Catalogue or e-catalogue or on our Website or otherwise, and whether made orally or in writing, is only an expression of our opinion.

Any Descriptions, Estimates or opinions given by us or on our behalf will be honestly given, using such skill and care as is reasonable having regard to the extent of that visual examination in the Standard Examination of the Lot and any information about the Lot you have given us or we may have obtained about it. If you are selling the Lot in the course of a Business, we will be entitled to rely entirely upon the Description of the Lot given by you or on your behalf in any opinion or Description or any Estimate we give.

Save that any Description, Estimate or opinion is honestly given with the degree of skill and care referred to in paragraph 1.3.3, we neither make nor agree to make any contractual promise, undertaking, obligation, guarantee, warranty or...
2.1 We provide a free service to members.

2.2 Any Description of the Lot on the Contract

1.3.6 If you wish us to provide a formal valuation and enter into a separate agreement with us for the purpose of identifying the Lot, you will need to request this, and we will make a further charge for undertaking any valuation.

## 2 Pre-Contract Statements and Representations and the Contract Form

2.1 We provide a free service to members of the public who bring in items for examination by us. Because the service is free and you are under no obligation to us in relation to it, and because on such examinations we merely express an opinion in relation to such items (which opinion we may change subsequently) and because we undertake specific obligations to you under this agreement, we owe you no duty (other than to be honest) either in contract or tort in relation to anything stated or represented (expressly or by implication) to you about the Lot and no such statement or representation will be incorporated into this agreement and any liability under the Misrepresentation Ordinance Cap 284 will be limited to the amount of any Consignment Fee payable.

2.2 Any Description of the Lot on the Contract Form is for the purposes of identification only and is not to be relied on.

## 3 Payments by You

3.1 Unless otherwise agreed in writing between us, you will pay us either:

3.1.1 Unless the Lot is sold by us (in which case paragraph 3.1.2 applies), the Consignment Fee (which will be payable on demand). The Consignment Fee will be calculated apart from Motor Vehicles according to the following scale of charges:

<table>
<thead>
<tr>
<th>Description</th>
<th>Fee</th>
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<tbody>
<tr>
<td>Unless paragraph 3.1.2 applies</td>
<td>for Motor Vehicles</td>
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<tr>
<td></td>
<td>the minimum</td>
</tr>
<tr>
<td></td>
<td>Consignment Fee</td>
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<tr>
<td></td>
<td>is 50% of the Notional Fee payable after consignment and before we have published an Entry about the Lot in the Catalogue or on our Website, once published rates will be described as in the table in 3.1.1</td>
</tr>
<tr>
<td>3.1.2 if the Lot is sold by us, on such Sale,</td>
<td>Commission calculated in accordance with the charges listed on the Contract Form:</td>
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<td>for cause) applies, we will waive the Consignment Fee if the Lot is offered for Sale during the Sale but is not sold by us on your behalf either during the Sale or under paragraph 13. We will also waive it if we refuse to sell the Lot pursuant to paragraph 10.3.</td>
</tr>
<tr>
<td>3.2 Unless paragraph 10.1 (refusal to sell for cause) applies, we will waive the Consignment Fee if the Lot is offered for Sale during the Sale but is not sold by us on your behalf either during the Sale or under paragraph 13. We will also waive it if we refuse to sell the Lot pursuant to paragraph 10.3.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>In addition, you will pay us any Expenses on demand.</td>
</tr>
<tr>
<td></td>
<td>In relation to the Sale of any motor car, you will additionally pay us the Motoring Catalogue Fee. We will inform you of the amount of this fee before it is incurred.</td>
</tr>
<tr>
<td></td>
<td>Any sum due from you but unpaid on the due date will bear interest (after as well as before judgement or order) at the annual rate of 5% per annum above the base lending rate of the Hong Kong and Shanghai Banking Corporation from time to time to be calculated on a daily basis from the date the sum became due until payment.</td>
</tr>
<tr>
<td></td>
<td>Time will be of the essence in relation to the payment of any sums payable by you to Bonhams.</td>
</tr>
</tbody>
</table>

## 4 Your Warranties and Undertakings to Us

4.1 We are selling the Lot on your behalf as your agent and you therefore warrant and undertake to us that:

4.1.1 you are the owner of the Lot or, if you are not the owner of the Lot, that you have disclosed the identity of the owner of the Lot to us, that you are duly authorised by the owner of the Lot to sell it and that you will supply to us written evidence of such authority in a form acceptable to us;

4.1.2 save as disclosed to us in writing, you sell the Lot with full title guarantee free from all liens, charges, encumbrances and third party claims;

4.1.3 you are legally entitled to sell the Lot and you are legally capable of conferring on the Buyer quiet possession of the Lot and that in the event the Lot is sold by us, the Sale will conform in every respect with the terms implied by the Sale of Goods Ordinance Cap 26, Sections 14(1) and 14(2) (see the Definitions and Glossary);

4.1.4 you have complied with all requirements, legal or otherwise, relating to any export or import of the Lot, all duties and taxes in respect of the export or import of the Lot have (unless otherwise agreed in writing with us) been paid and, so far as you and any principal for whom you act in relation to the Lot are aware, all third parties have complied with such requirements in the past;

4.1.5 you have notified us in writing of any material alterations to the Lot and provided us accurately with all information (including any concerns expressed by third parties relating to the authorship, attribution, condition, provenance, authenticity, age, suitability, quality and origin of the Lot) in relation to the Lot, or any Description of it, of which you are aware or which is in your possession or of which any principal for whom you act in relation to the Lot is aware or possesses;

4.1.6 you have notified us of all information of which you are aware or reasonably ought to be aware relating to the present or past ownerships or use of the Lot (including any association of the Lot with persons or events of note);

4.1.7 in so far as you or any principal may become aware of any information (including any concerns expressed by third parties) in relation to the Lot, or any Description of it, after this agreement has been made, you will promptly inform us of it;

4.1.8 unless you notify us in writing to the contrary at the time the Lot is delivered to us, there are no restrictions, (whether copyright or otherwise), affecting the Lot or our rights to photograph or illustrate the Lot, or reproduce (in any manner and in any media) photographs or illustrations or any text of any information or description of, about or relating to the Lot provided by you or on your behalf.

You undertake and warrant that neither you nor - if you are a company, your directors, officers or your owner or their directors or shareholders – are an individual or an entity that is, or is owned or controlled by, individuals or entities that at the time of signature of this agreement are:

the subject of any sanctions administered or enforced by the U.S. Department of the Treasury's Office of Foreign Assets Control, the U.S. Department of State, the United Nations Security Council, the European Union, Her Majesty's Treasury, or other relevant sanctions authority ("Sanctions" and a "Sanctioned Party"); or
4.2.2 located, organised or resident in a country or territory that is, or whose government is, the subject of Sanctions, including without limitation, Iran, North Korea, Sudan and Syria.

4.2.3 You warrant that items consigned by you for sale are not connected with any criminal activity, including without limitation tax evasion, money laundering or terrorist financing.

4.3 Where you are acting as agent for another party ("your Principal"), you undertake and warrant that:

4.3.1 you have conducted suitable customer due diligence into your Principal under applicable Sanctions and Anti-Money Laundering laws and regulations;

4.3.2 your Principal is not a Sanctioned Party and not owned, partially owned or controlled by a Sanctioned Party, and you have no reason to suspect that your Principal has been charged or convicted with, money laundering, terrorism or other crimes;

4.3.3 items consigned by you or your Principal for sale are not connected with or derived from any criminal activity, including without limitation tax evasion, money laundering or terrorist financing; and

4.3.4 that you consent to Bonhams relying upon your customer due diligence, undertaking to retain records of your due diligence for at least 5 years and to make such due diligence records available for inspection by an independent auditor in the event we request you to do so.

4.4 In the event we have agreed with you, in the Receipt and Contract or otherwise, that the cataloguing or promotional material for the sale of the Lot(s) under this contract shall include your name or a third party's name, then you grant to Bonhams a non-exclusive licence to use such name in pre- and post-sale publicity materials for such Lot(s). In such cases you warrant that there are no legal, contractual or other restrictions on Bonhams' right to use such name in such circumstances.

4.5 You warrant that the Lot does not contain ivory.

4.6 You authorise us to give to the Buyer on your behalf the warranties, undertakings or information referred to in this paragraph 4.

5 INDEMNITIES FROM YOU

5.1 You agree to indemnify us against all claims, proceedings, liabilities, costs, Expenses and losses arising from:

5.1.1 any actual or alleged breach of any undertaking, warranty or obligation by you to us, whether by act or omission or otherwise;

5.1.2 any injury, loss or damage caused to any person by you;

5.1.3 our exercising any of our rights, powers and/ or duties under paragraphs 10.1, 10.4 or 12.12;

5.1.4 our receiving or recovering (or seeking to recover where you have authorised us to do so) the Purchase Price, in particular our exercising any of our rights, powers and/ or duties under paragraph 12.12, where our costs and Expenses are not otherwise recouped by us;

5.1.5 your fraud and our exercising any of our rights or powers under paragraph 15 in the event of fraud;

5.1.6 without prejudice to paragraph 5.1.1, any error, misdescription or omission in any Description of the Lot or any Estimate in relation to it, so long as it was not caused by a breach of our duty to you under this agreement to exercise reasonable skill and care.

5.2 A copy of the Catalogue or the Estimate (s) for the relevant Lot(s) may be revised either orally or in writing from time to time (including during the Sale) at our discretion.

5.3 If the Contract Form states a figure for the Reserve, that is the agreed Reserve with which the Lot will be sold.

5.4 If the Contract Form states that the Reserve is "zero", "sell" or "0" that the Lot is to be sold Without Reserve or that there is no Reserve, it is agreed that the Lot will be sold Without Reserve.

5.5 If the Contract Form does not contain any of the statements referred to in paragraphs 5.3 or 5.4, the Lot will be sold Without Reserve unless by written notice received by us at least 24 hours prior to the start of the Sale, you ask us to place a Reserve on the Lot at a particular figure and we accept, in writing, that figure as the Reserve.

5.6 The figure you give for the Reserve in the Contract Form or in a notice under paragraph 5.5 may not exceed the lower figure of any Estimates for the Lot which we have notified to you, or else we can refuse to sell the Lot, unless:

5.6.1 you agree that the Lot is offered for Sale at a lower Reserve set by us;

5.6.2 you agree that the Lot is offered for Sale at the Reserve placed by you but with suitable increased Estimates placed by us to ensure that the Reserve is not higher than the lower of such Estimates, and if the Lot thus offered does not sell, you will pay us the Consignment Fee by reference to the Notional Price and any other Expenses owing.

5.7 All Reserves will be in the currency of the country in which the Lot is to be sold. Any Reserve placed in any other currency will be converted into that currency using the mid-market exchange rate at the close of business on the day before the Sale as quoted to us by the Hong Kong and Shanghai Banking Corporation.

5.8 Where a Reserve has been placed on the Lot, an Auctioneer in a Live or Hybrid Sale may, at his sole discretion, place bids (up to an amount not equalling or exceeding the Reserve) on your behalf.

5.9 Where the Contract Form states that we are given "discretion" or "wide discretion" in relation to the Reserve, you authorise us (and the Auctioneer) in any Live or Hybrid Sale if the Auctioneer deems it necessary in order to sell the Lot (regardless of estimate) to accept bids for the Lot at up to 10% or 50% respectively less than the Reserve.

5.10 In addition to the authority under paragraph 5.9, you authorise us (and the Auctioneer) in any Live or Hybrid Sale to accept bids (and sell at a Hammer Price) at less than the Reserve (or, if we are given "discretion" or "wide discretion" under paragraph 7.9, at 10% or 50% as appropriate, less than the Reserve) provided that where we rely on this authority the Sale Proceeds paid to you are calculated on the basis that the Hammer Price was an amount equal to the Reserve (or, if we are given "discretion" or "wide discretion" under paragraph 7.9, an amount equal to 90% or 50% as appropriate of the Reserve).
8.2.2 Our responsibility to you under the

8.2.2 Without prejudice to your statutory rights:

8.2.2.1 (a) if the 

8.2.2.2 Our responsibility for the 

8.2.2.3 if the Lot is sold to the Sale or subsequently by us on your behalf under paragraph 13, a sum equal to 1.5% of the amount specified in paragraph 8.2.2.1(b); subject in each case to a minimum charge of HKD50. This fee is included in our Expenses, which are payable on demand.

9 WITHDRAWAL BY YOU

10 OUR RIGHT TO REFUSE TO SELL AND OTHER RESPONSES FOR CAUSE

10.1 If we have reasonable cause for believing that:

10.1.1 we and/or you may be or are restrained by order of the court or other competent authority in respect of the Lot, or may be or are otherwise not legally entitled to sell the Lot; or

10.1.2 if you are in actual or potential breach of any of the warranties and undertakings set out in paragraph 4; or

10.1.3 the information about the Lot given to us by you or on your behalf is inaccurate or misleading in any material respect; or

10.1.4 the Lot is a Forgery,

we may refuse to sell the Lot in question. In this event, you will remain liable to pay us the Consignment Fee and Expenses on demand.

10.2 We will give you written notice of any decision under paragraph 10.1 and of the reason for it as soon as practicable after making our decision to refuse to sell the Lot in question.

10.3 In addition to our right to refuse to sell the Lot under paragraph 10.1, we may, by notice to you, refuse to sell any Lot for any other reason, including but not limited to cases where we believe such sale to be unlawful or that it might give rise to liability to Bonhams or cause damage to Bonhams' reputation. If we exercise this right after delivery of the Lot under paragraph 8.1.1, we will reimburse to you your reasonable expenses directly incurred by you in connection with that delivery and the collection and removal of the Lot from our custody and/or control.

10.4 Whenever it becomes apparent to us that the Lot is the subject of a claim by someone other than you (for that such a claim can reasonably be expected to be made), we may, at our absolute discretion, deal with the Lot in any manner which appears to us to recognise the legitimate interests of ourselves and the other parties involved and lawfully protect our position and our legitimate interests. Without prejudice to the generality of this discretion and by way of example, we may:

10.4.1 refuse to sell the Lot; and/or

10.4.2 retain the Lot to investigate any question raised or reasonably expected by us to be raised in relation to it; and/or

10.4.3 bring interpleader proceedings or seek any other order of any court, mediator, arbitrator or government body at your cost; and/or

10.4.4 require a further indemnity (beyond those set out in paragraph 5) and/or security from you in return for pursuing a course of action agreed to by you.
10.5 We will not exercise the rights under paragraph 10.4; 12.3

10.5.1 unless we consider that there are reasonable grounds to believe there is an arguable case in favour of the claim; or 12.10

10.5.2 where the claim is a legitimate claim to the possession of the Lot by a Buyer of the Lot. 12.11

10.6 The rights under paragraph 10.4 are without prejudice to our rights to refuse to sell the Lot set out in paragraphs 10.1 and 10.3 and we may exercise them in addition to or in substitution for those rights and notwithstanding the exercise of our rights any Consignment Fee and Expenses shall remain due and payable to us on demand. 12.4

10.7 The rights under paragraph 10.4 may be exercised at any time during which we have actual or constructive possession of the Lot, or at any time after such possession, where the cessation of such possession has occurred by reason of any decision, order or ruling of any court, mediator, arbitrator or government body. 11

10.8 We reserve the rights to make enquiries about any person transacting with us and to identify the source of any funds received from the Buyer. In the event we have not completed our investigations in respect of anti-terrorism financing, anti-money laundering or other financial and identity checks concerning either you or the Buyer to our satisfaction at our discretion, we shall be entitled to retain Lots and/or proceeds of Sale, postpone or cancel any Sale and to take any other actions required or permitted under applicable law, without liability to you. 11.2

11 THE SALE 11.1.4 Commission

11.1 We will conduct the Sale in accordance with the relevant Notice to Bidders and will sell the Lot on your behalf on the terms of the Contract for Sale subject to any alteration by us made at our discretion by notices, inserts and announcements. You authorise Bonhams to charge the Buyer and retain a Buyer’s Premium in accordance with our latest published rates. We will exercise such discretion reasonably as between you and us. 11.2

11.2 Neither you nor any person on your behalf (other than the Auctioneer in a Live or Hybrid Sale) may bid for the Lot, whether a Reserve has been placed or not. If any such bid is nonetheless made, the Auctioneer may knock the Lot down to you without observing any Reserve and you will pay to us the Buyer’s Premium in addition to the Commission and Expenses. 11.6

12 SALE PROCEEDS 12.1

12.1 Subject to paragraph 12.3, title to the Lot will only pass to the Buyer on receipt by us of cleared funds of the full Purchase Price and on completion of our investigations pursuant to paragraph 10.8. Once the Buyer has paid the Purchase Price and all other sums due to us, and we have completed our enquiries to our satisfaction under paragraph 10.8, we will release the Lot to the Buyer. 12.7

12.2 You agree that we or any associated company of ours may at our or its discretion offer credit facilities to the Buyer to finance the sums payable to us and that the Buyer may use any existing credit facility with us (or any associated company of ours) if permitted by the terms of that facility to pay the sums to be paid. 12.8

12.3 Unless otherwise agreed in writing between you and us, we may at our discretion pay the Sale Proceeds to you before receipt of the Purchase Price, and, on our doing so, title in the Lot will pass to Bonhams and your right to payment of the Purchase Price will pass to us together with any right of action which you may have against the Buyer for non-payment. 12.9

12.4 All sums received by us on account of the Purchase Price for the Lot will be paid into our Account at the Hong Kong and Shanghai Banking Corporation A/C 803870174001. Our sole obligation to you in respect of the Purchase Price and the Sale Proceeds will be to hold the same in accordance with and subject to the provisions of paragraphs 12.5 to 12.12 inclusive below, and you will have no further right or recourse against us in respect of the Purchase Price or the Sale Proceeds other than your rights to the Sale Proceeds under this contract. In particular, the funds in the Account are held at your risk so that in the event of the insolvency of the bank at which the Account is held or in the event of such bank’s delay in or failure to pay amounts owing to the credit of the Account, we will have no liability to you for payment of the Sale Proceeds, unless any loss suffered by you is attributable to our negligence or willful default in connection with the Account. 12.10

12.5 We may deduct and retain from the Purchase Price any Consignment Fee, Commission, Expenses, Buyer’s Premium, and interest earned on the Account. 12.11

12.6 Conditional upon completion of our enquiries to our satisfaction under paragraph 10.8, we will distribute the Sale Proceeds held under clause 12.4 (which, for the avoidance of doubt, shall be the portion of the Purchase Price remaining after any deductions we are entitled to make pursuant to paragraphs 12.5 to 12.6 inclusive or paragraphs 12.9 to 12.12 inclusive) 35 days after the Sale (or any Sale under paragraph 13) or, if we receive the Purchase Price later than that date, within seven working days after the date of receipt of the Purchase Price in cleared funds by us. Payment will be made by cheque drawn in your favour, in the currency in which the Sale is conducted, and sent, at your risk, by post to you at the address shown on the Contract Form or such other address as you may specify in writing. If you wish for us to send the money to your account by telegraphic transfer you agree to us deducting any fees charged by our bank for such transfer from the amount transferred. Any telegraphic transfer must be made to an account held in the same name as the name on the Contract Form. 12.12

12.7 We may retain the Sale Proceeds until you have delivered to us any relevant documentation reasonably required by us to evidence your right to transfer title to the Lot to the Buyer and in respect of our enquiries under paragraph 10.6, and all documentation referred to in the Entry regarding the Lot. 12.13

12.8 We may deduct from the Purchase Price and pay ourselves by monies due to us from you, including any sums due to us in respect of any other goods bought or sold through us by you. 12.14

12.9 If before the Sale Proceeds have been distributed to you the Buyer or any other person makes a claim against either you or us in relation to the Lot, we may withhold distribution of the Sale Proceeds to you until such time as the claim has been resolved. 12.15

12.10 If the Buyer fails or refuses to pay the Purchase Price for the Lot to us, we will notify you of this as soon as practicable. 12.16

12.11 Any monies recovered or paid to us in consequence of our taking any steps pursuant to paragraph 8 in Appendix I (your Contract for Sale with the Buyer) will be applied (in each case with the addition of interest at the annual rate of 5% per annum above the base lending rate of the Hong Kong and Shanghai Banking Corporation from time to time to be calculated on a daily basis from the date the relevant sum was paid by us until the date of receipt by us of the monies) to the payment in the following order of: 13

12.11.1 all legal or other costs incurred by us in connection with such steps; 13

12.11.2 all other relevant Expenses; 13.1

12.11.3 Buyer’s Premium; 13.2

12.11.4 Commission 13.3

Any balance remaining will be distributed in accordance with paragraph 12.7 above. In the event that the monies recovered from the Buyer are insufficient to pay these amounts, any such shortfall will be made good by us to you, on demand 13

13 AUTHORITY TO SELL OR DISPOSE OF AN UNSOLD LOT

If the Lot is unsold at the Sale, we (as your sole and exclusive agent) may for a period of at least 35 days following the Sale enter into an agreement to sell the Lot (at a Sale or by private treaty) upon such terms and conditions as we may reasonably consider appropriate. Subject to paragraph 13.2 below, the minimum Sale Proceeds from such a sale will (if a Reserve has been agreed with or accepted by us) be not less than the Sale Proceeds would have been if the Lot had been sold at the Reserve. 13.4

Where a Lot has not sold at the Sale and we believe that it could be sold if the Reserve were reduced, we will write to you setting out our suggestion as to a new Reserve. If you do not object to the new Reserve suggested by us within one month of the date of our letter, then the Reserve will be reduced accordingly. If you object in writing to the new Reserve within the above one month then the Reserve will remain unchanged and our authority to sell the Lot in accordance with these conditions shall continue. 13.5

We will, unless agreed otherwise, be entitled to Commission on the Sale of the Lot under paragraph 13.1 and we are entitled to charge the Buyer of any Lot and retain a Buyer’s Premium to any Buyer of any Lot on any such Sale. 13.6

After the period of 35 days following the Sale, you may terminate our authority to sell a Lot under paragraph 13.1 by giving us written notice for which proof of delivery is required whereupon you must remove the Lot at your expense within seven days of such notice.
In addition to the above authority to sell the Lot, you agree that, if you fail to remove the Lot by the expiry of the time set for removal in paragraph 8.4, we may, after the expiration of 3 months written notice from us to you specifying that we wish to sell pursuant to this paragraph 13.5, sell the Lot on your behalf (at auction or by private treaty) Without Reserve if you still have not removed it. We will be entitled to deduct from the Purchase Price: (a) the costs of Sale; (b) Commission on the Sale of the Lot by us under this paragraph; and (c) any other sums due to us from you. In addition, we will be entitled to charge a Buyer’s Premium to any Buyer of any Lot on such Sale, and we will be entitled to retain the Buyer’s Premium from the proceeds of such a Sale.

LIMITS ON OUR LIABILITY

If you are selling the Lot in the course of a Business, we will be entitled to rely entirely upon the Description of the Lot given by you or on your behalf in any opinion or Description or Estimate we give. Our liability in respect of any Description given by us is excluded except to the extent that we fail accurately to reflect any Description of the Lot given to us by you.

Without prejudice to the exclusion of liability provided for in paragraph 16.1, we will not be liable (whether in negligence, other tort, breach of contract or statutory duty or in restitution or in any other way) whether as a result of an act or an omission, whether before or after this agreement, for any lack of conformity with or inaccuracy, error or misdescription or omission in any Description of a Lot or any opinion, Entry or Estimate in respect of it (whether made in writing, including in the Catalogue or e-catalogue, or on our Website, or orally or by conduct or otherwise) or in the setting of any Reserve or for any failure to achieve a Sale or a Sale at a higher price than was achieved, except in so far as it is caused by a breach of our duty to exercise reasonable skill and care in the performance of the obligations we have agreed to under this agreement or in the case of fraud by you or on our behalf (and we will not be liable to the extent that any breach of obligation by you has caused or contributed to it).

Our duty to you while the Lot is your property and in our custody and/or control is that of bailee for reward, but we will not be responsible for damage to the Lot or to other persons or things caused by:

16.3.1 handling the Lot if it is affected by woodworm or other infestation or inherent defect and if any damage is caused as a result of it being so affected; or
16.3.2 changes in atmospheric pressure; nor will we be liable for:
16.3.3 damage to tension stringed musical instruments; or
16.3.4 damage to gilded or plaster picture frames, or to picture frame glass.

We will not be liable to you for any loss of Business, Business profits or revenue or income or for loss of Business reputation or for disruption to Business or wasted time on the part of management or staff or, if you are selling the Lot in the course of a Business, for any indirect losses or consequential damages of any kind, irrespective in any case of the nature, volume or source of the loss or damage alleged to be suffered, and irrespective of whether the said loss or damage is caused by or claimed in respect of any negligence, other tort, breach of contract, statutory duty, bailee’s duty, restitutionary claim or otherwise.

If you are selling the Lot in the course of a Business, in any circumstances where we are liable to you in respect of a Lot, or any act, omission, statement or representation in respect of it or this agreement or its performance, and whether in damages, for an indemnity or contribution, for a restitutionary remedy or in any way whatsoever, our liability will be limited to payment of a sum which will not exceed by way of maximum the amount of the Purchase Price (if any) or, if the Lot is not sold, the Notional Price, irrespective in any case of the nature, volume or source of any loss or damage alleged to be suffered or sum claimed as due, and irrespective of whether the liability arises from negligence, other tort, breach of contract, statutory duty, bailee’s duty, restitutionary claim or otherwise. You may wish to protect yourself against loss by obtaining your own insurance.

Nothing set out above will be construed as excluding or restricting (whether directly or indirectly) any person’s liability or excluding or restricting any person’s rights or remedies in respect of (i) fraud, or (ii) death or personal injury caused by our negligence (or any person under our control or for whom we are legally responsible), or (iii) acts or omissions for which we are liable under the Occupiers Liability Ordinance Cap 314, or (iv) any other liability to the extent the same may not be excluded or restricted as amatter of law.

INTRODUCTORY COMMISSIONS

You agree that in line with market practice Bonhams may make payments (sometimes known as “Introductory Commission”) to someone who has introduced you to a Bonhams Company, and will advise them to inform you about such introductory commission, including its amount. Such payment will not be treated as an Expense.

SALE FORMAT

Bonhams retains complete discretion to offer the Lot, in particular in relation to:

18.1 the place(s) and date(s) of the Sale of the Lot, including rescheduling or cancelling the Sale;
18.2 the format and medium of the Sale, which may be held, including without limitation as a Live Sale (conducted by an Auctioneer, open to in-person inspection of Lots and attendance at the Sale), an Online Sale (conducted only online, in a timed format, with discretionary in-person inspection of Lots), or a Hybrid Sale (conducted by an Auctioneer in a live format, closed to in-person attendance at the Sale, with discretionary in-person inspection of Lots);
18.3 the grouping of Property into Lots, the production or publication of Catalogues, and, the medium(s) thereof, whether in print, digital, or online, and on our website;

18.4 the inclusion of any Lot in pre-Sale viewings;

18.5 the description (including without limitation any Lot-specific Notice(s) to Bidders) and illustration, if any, of the Lot in our Catalogues, website and other materials;

18.6 the manner in which any Sale is conducted, including without limitation the content of any saleroom announcements, who we permit to participate in the auction, or whether we accept any bid.

19 ONLINE SALES

Where a Lot is to be offered in an Online Sale or a Hybrid Sale where no in-person inspection can take place, these Conditions of Business are supplemented by our Conditions of Business for Online Sales, together with the appendices attached thereto, which can be found on our website under Terms and Conditions. The Conditions of Business for Online Sales are hereby incorporated into this Agreement with you.

20 MISCELLANEOUS

20.1 You may not assign either the benefit or burden of this agreement.

20.2 Our failure or delay in enforcing or exercising any power or right under this agreement will not operate or be deemed to operate as a waiver of our rights under it except to the extent of any express waiver given to you in writing. Any such waiver will not affect our ability subsequently to enforce any right arising under this agreement.

20.3 If either party to this agreement is prevented from performing its respective obligations under this agreement by circumstances beyond its reasonable control (including without limitation, governmental intervention, industrial action, insurrection, terrorism, warfare (declared or undeclared), power failure, epidemic or natural disaster) or if performance of its obligations would by reason of such circumstances give rise to a significantly increased financial cost to it, that party will not, for so long as such circumstances prevail, be required to perform such obligations. This paragraph does not apply to the obligations imposed on you by paragraphs 3, 4, 5, 6, 8, 13, 14 or 18.

20.4 Any notice or other communication to be given under this agreement must be in writing and may be delivered by hand or sent by post or air mail or email (if to Bonhams marked for the attention of the Company Secretary), to the address or email address of the relevant party given in the Contract Form (unless notice of any change of address is given in writing). It is the responsibility of the sender of the notice or communication to ensure that it is received in a legible form within any applicable time period.

20.5 You acknowledge and agree that Bonhams has not provided any legal or tax advice to you and no one employed by or representing Bonhams has acted as your legal or tax advisor.

20.6 If any term or any part of any term of this agreement is held to be unenforceable or invalid, such unenforceability or invalidity will not affect the enforceability and invalidity of the remaining terms or the remainder of the relevant term.

20.7 References in this agreement to Bonhams will, where appropriate, include reference to Bonhams' officers, employees, agents and to any subsidiary of Bonhams Holdings Limited and to its officers, employees and agents.

20.8 The headings used in this agreement are for convenience only and will not affect their interpretation.

20.9 In this agreement "including" means "including, without limitation".

20.10 References to the singular will include reference to the plural (and vice versa) and reference to any one gender will include reference to the other genders.

20.11 Reference to a numbered paragraph is to a paragraph of this agreement.

20.12 Save as expressly provided in paragraph 12 nothing in this agreement confers (or purports to confer) on any person who is not a party to this agreement any benefit conferred by, or the right to enforce any term of, this agreement.

20.13 Where this agreement confers an immunity from, and/or an exclusion or restriction of, the responsibility and/or liability of Bonhams, this agreement will also operate in favour of the benefit of Bonhams' holding company and the subsidiaries of such holding company and the successors and assigns of Bonhams and of such companies and of any officer, employee and agent of Bonhams and such companies, each of whom will be entitled to rely on the relevant immunity and/or exclusion and/or restriction within and for the purposes of Contracts (Rights of Third Parties) Ordinance Cap 623, which enables the benefit of a contract to be extended to a person who is not a party to the contract, and generally at law.

21 GOVERNING LAW

All transactions to which this agreement applies and all connected matters will be governed by and construed in accordance with the laws of the Hong Kong Special Administrative Region where the Sale takes (or is to take) place and we and you each submit to the exclusive jurisdiction of the courts of the Hong Kong Special Administrative Region, save that we may bring proceedings against you in any other court of competent jurisdiction to the extent permitted by the laws of the relevant jurisdiction. Bonhams has a complaints procedure in place, available from the Company Secretary.

22 DEFINITIONS AND GLOSSARY

Where these Definitions and Glossary are incorporated, the following words and phrases used have (unless the context otherwise requires) the meanings given to them below. The Glossary is to assist you to understand words and phrases which have a specific legal meaning with which you may not be familiar.

LIST OF DEFINITIONS

"Account" the bank account of Bonhams into which all sums received in respect of the Purchase Price of any Lot will be paid.

"Auctioneer" the representative of Bonhams conducting the Sale.

"Bidder" a person who has completed a Bidding Form.

"Bidding Form" our Bidding Registration Form, our Absentee Bidding Form or our Telephone Bidding Form.

"Bonhams" Bonhams (Hong Kong) Limited or its successors or assigns. Bonhams is also referred to in the Buyer's Agreements, the Conditions of Business and the Notices to Bidders by the words "we", "us" and "our".

"Book" a printed Book offered for Sale at a specialist Book Sale.

"Business" includes any trade, Business and profession.

"Buyer" the person to whom a Lot is knocked down by the Auctioneer. The Buyer is also referred to in the Contract for Sale and the Buyer's Agreements by the words "you" and "your".

"Buyer's Agreement" the contract entered into by Bonhams with the Buyer.

"Buyer's Premium" the sum calculated on the Hammer Price at the rates stated in the Notice to Bidders.

"Catalogue" the Catalogue or e-catalogue relating to the relevant Sale, including any representation of the Catalogue published on our Website.

"Commission" the Commission payable by the Seller to Bonhams calculated at the rates stated in the Contract Form.

"Contract for Sale" the contract entered into by Bonhams with the Buyer.

"Contract Form" the Contract Form, or vehicle Entry form, as applicable, signed by or on behalf of the Seller listing the Lots to be offered for sale by Bonhams.

"Contract Offered for Sale" the Sale contract entered into by the Seller with the Buyer.

"Contractual Description" the only Description of the Lot (being that part of the Entry about the Lot in the Catalogue which is in bold letters), and any photograph (except for the colour) to which the Seller undertakes in the Contract for Sale the Lot corresponds.

"Description" any statement or representation in any way descriptive of the Lot, including any statement or representation relating to its authorship, attribution, condition, provenance, authenticity, style, period, age, suitability, quality, origin, value, estimated selling price (including the Hammer Price).

"Entry" a written statement in the Catalogue identifying the Lot and its Lot number which may contain a Description and illustration(s) relating to the Lot.
“Estimate” a statement of our opinion of the range within which the hammer is likely to fall.

“Expenses” charges and Expenses paid or payable by Bonhams in respect of the Lot including legal Expenses, banking charges and Expenses incurred as a result of an electronic transfer of money, charges and Expenses for loss and damage cover, insurance, Catalogue and other reproductions and illustrations, any customs duties, advertising, packing or shipping costs, reproductions rights’ fees, taxes, levies, costs of testing, searches or enquiries, preparation of the Lot for Sale, storage charges, removal charges, removal charges, costs of collection from the Seller as the Seller’s agents or from a defaulting Buyer.

“Forgery” an imitation intended by the maker or any other person to deceive as to authorship, attribution, origin, authenticity, style, date, age, period, provenance, culture, source or composition, which at the date of the Sale had a value materially less than it would have had if the Lot had not been such an imitation, and which is not stated to be such an imitation in any description of the Lot. A Lot will not be a Forgery by reason of any damage to, and/or restoration and/or modification work (including repainting or over painting) having been carried out on the Lot, where that damage, restoration or modification work (as the case may be) does not substantially affect the identity of the Lot as one conforming to the description of the Lot.

“Guarantee” the obligation undertaken personally by Bonhams to the Buyer in respect of any Forgery and, in the case of specialist Stamp Sales and/or specialist Book Sales, a Lot made up of a Stamp or Stamps or a Book or Books as set out in the Buyer’s Agreement.

“Hammer Price” the price in the currency in which the Sale is conducted at which a Lot is knocked down by the Auctioneer.

“Hybrid Sale” a Live Sale conducted by an Auctioneer but in a closed auction room not open to the public, except for pre-Sale viewing by appointment with Bonhams.

“Live Sale” a Sale conducted by an Auctioneer, open to the public for both viewing and attendance at the Sale.

“Loss and Damage Warranty” means the warranty described in paragraph 8.2.2 of the Conditions of Business.

“Loss and Damage Warranty Fee” means the fee described in paragraph 8.2.3 of the Conditions of Business.

“Lot” any item consigned to Bonhams with a view to its Sale at auction or by private treaty (and reference to any Lot will include, unless the context otherwise requires, reference to individual items comprised in a group of two or more items offered for Sale as one Lot).

“Motoring Catalogue Fee” a fee payable by the Seller to Bonhams in consideration of the additional work undertaken by Bonhams in respect of the cataloguing of motor vehicles and in respect of the promotion of Sales of motor vehicles.

“Notional Charges” the amount of Commission which would have been payable if the Lot had been sold at the Notional Price.

“Notional Fee” the sum on which the Consignment Fee payable to Bonhams by the Seller is based and which is calculated according to the formula set out in the Conditions of Business.

“Notional Price” the latest in time of the average of the high and low Estimates given by us to you or stated in the Catalogue or, if no such Estimates have been given or stated, the Reserve applicable to the Lot.

“Notice to Bidders” the notice printed at the back or front of our Catalogues.

“Online Sale” a Sale conducted online only with no Auctioneer, with discretionary pre-Sale viewing by appointment with Bonhams.

“Purchase Price” the aggregate of the Hammer Price, the Buyer’s Premium and any Expenses.

“Reserve” the minimum price at which a Lot may be sold (whether at auction or by private treaty).

“Sale” the auction Sale, whether by Live auction, a Hybrid auction or an Online Sale, at which a Lot is to be offered for Sale by Bonhams.

“Sale Proceeds” the net amount due to the Seller from the Sale of a Lot, being the Hammer Price less the Commission and any Withholding Tax payable by non-resident sellers, Expenses and any other amount due to us in whatever capacity and howsoever arising.

“Seller” the person who offers the Lot for Sale named on the Contract Form. Where the person so named identifies on the form another person as acting as his agent, or where the person named on the Contract Form acts as an agent for a principal (whether such agency is disclosed to Bonhams or not), “Seller” includes both the agent and the principal who shall be jointly and severally liable as such. The Seller is also referred to in the Conditions of Business by the words “you” and “your”.

“Specialist Examination” a visual examination of a Lot by a specialist on the Lot.

“Stamp” means a postal stamp offered for Sale at a Specialist Stamp Sale.

“Standard Examination” a visual examination of a Lot by a non-specialist member of Bonhams’ staff.

“Storage Contract” means the company identified as such in the Catalogue.

“Terrorism” means any act or threatened act of terrorism, whether any person is acting alone or on behalf of or in connection with any organisation(s) and/or government(s), committed for political, religious or ideological or similar purposes including, but not limited to, the intention to influence any government and/or put the public or any section of the public to fear.

“Withdrawal Notice” written notice to Bonhams revoking Bonhams’ instructions to sell a Lot.

“Without Reserve” where there is no minimum price at which a Lot may be sold (whether at auction or by private treaty).

GLOSSARY

The following expressions have specific legal meanings with which you may not be familiar.

The following glossary is intended to give you an understanding of those expressions but is not intended to limit their legal meanings:

“bailee”: a person to whom goods are entrusted.

“indemnify”: an obligation to put the person who has the benefit of the indemnity in the same position in which he would have been, had the circumstances giving rise to the indemnity not arisen and the expression “indemnify” is construed accordingly.

“interpleader proceedings”: proceedings in the Courts to determine ownership or rights over a Lot.

“knocked down”: when a Lot is sold to a Bidder, indicated by the fall of the hammer at the Sale. “lien”: a right for the person who has possession of the Lot to retain possession of it.

“risk”: the possibility that a Lot may be lost, damaged, destroyed, stolen, or deteriorate in condition or value.

“title”: the legal and equitable right to the ownership of a Lot.

“tort”: a legal wrong done to someone to whom the wrong doer has a duty of care.

“warranty”: a legal assurance or promise, upon which the person to whom the warranty was given has the right to rely.
APPENDIX 1
BUYER’S SALE CONTRACT WITH SELLER WHERE THE LOT IS TO BE OFFERED IN A LIVE OR HYBRID AUCTION

IMPORTANT: These terms may be changed in advance of the Sale of the Lot to you, by the setting out of different terms in the Catalogue for the Sale and/or by placing an insert or amendment in the Catalogue and/or by notices at the Sale venue and/or on Bonhams’ website, and/or by oral announcements before and during the Sale

at the Sale venue. You should be alert to this possibility of changes and ask in advance of bidding if there have been any.

Under this contract the Seller’s liability in respect of the quality of the Lot, its fitness for any purpose and its conformity with any Description is limited. You are strongly advised to examine the Lot for yourself and/or obtain an independent examination of it before you buy it.

1 THE CONTRACT

1.1 These terms and the relevant terms for Bidders and Buyers in the Notice to Bidders govern the Contract for Sale of the Lot by the Seller to the Buyer.

1.2 The Definitions and Glossary contained in the Conditions of Business at paragraph 22 are incorporated into this Contract for Sale and a separate copy can also be provided by Bonhams on request. Where words and phrases are used which are in the List of Definitions, they are printed in italics.

1.3 The Seller sells the Lot as the principal to the Contract for Sale, such contract being made between the Seller and you through Bonhams which acts in the sole capacity as the Seller’s agent and not as an additional principal. However, if the Catalogue states that Bonhams sells the Lot as principal, or such a statement is made by an announcement by the Auctioneer, or by a notice at the Sale, or an insert in the Catalogue, then Bonhams is the Seller for the purposes of this agreement.

1.4 The contract is made on the fall of the Auctioneer’s hammer in respect of the Lot when it is knocked down to you.

2 SELLER’S WARRANTIES AND UNDERTAKINGS

2.1 The Seller warrants and undertakes to you that:

2.1.1 the Seller is the owner of the Lot or is duly authorised to sell the Lot by the owner;

2.1.2 save as disclosed in the Entry for the Lot in the Catalogue, the Seller sells the Lot with full title guarantee or, where the Seller is an executor, trustee, liquidator, receiver or administrator, with whatever right, title or interest he may have in the Lot;

2.1.3 except where the Sale is by an executor, trustee, liquidator, receiver or administrator the Seller is both legally entitled to sell the Lot, and legally capable of conferring on you quiet possession of the Lot and that the Sale conforms in every respect with the terms implied by the Sale of Goods Ordinance Cap 26 Section 14(1) (see the Definitions and Glossary);

2.1.4 the Seller has complied with all requirements, legal or otherwise, relating to any export or import of the Lot, and all duties and taxes in respect of the export or import of the Lot have (unless stated to the contrary in the Catalogue or announced by the Auctioneer) been paid and, so far as the Seller is aware, all third parties have complied with such requirements in the past;

2.1.5 items consigned by the Seller are not connected with or derived from any criminal activity, including without limitation tax evasion, money laundering or terrorist financing or in breach of any applicable international trade sanctions;

2.1.6 subject to any alterations expressly identified as such made by announcement or notice at the Sale venue or by the Notice to Bidders or by an insert in the Catalogue or on the Lot’s website, the Lot corresponds with the Contractual Description of the Lot, being that part of the Entry about the Lot in the Catalogue which is in bold letters and (except for colour) with any photograph of the Lot in the Catalogue.

3 DESCRIPTIONS OF THE LOT

3.1 Paragraph 2.1.5 sets out what is the Contractual Description of the Lot. In particular, the Lot is not sold as corresponding to any part of the Entry in the Catalogue which is not printed in bold letters, the remainder of which Entry merely sets out (on the Seller’s behalf) Bonhams’ opinion about the Lot and which is not part of the Contractual Description upon which the Lot is sold. Any statement or representation other than that part of the Entry referred to in paragraph 2.1.5 (together with any express alteration to it as referred to in paragraph 2.1.5), including any Description or Estimate made orally or in writing, including in the Catalogue or on Bonhams’ Website, or by conduct, or otherwise, and whether by or on behalf of the Seller or Bonhams and whether made prior to or during the Sale, is not part of the Contractual Description upon which the Lot is sold.

Except as provided in paragraph 2.1.5, the Seller does not make or give and does not agree to make or give any contractual promise, undertaking, obligation, guarantee, warranty, or representation of fact, or undertake any duty of care, in relation to any Description of the Lot or any Estimate in relation to it, nor of the accuracy or completeness of any Description or Estimate which may have been Bonhams’. No such Description or Estimate is incorporated into this Contract for Sale.

4 FITNESS FOR PURPOSE AND SATISFACTORY QUALITY

The Seller does not make and does not agree to make any contractual promise, undertaking, obligation, guarantee, warranty, or representation of fact in relation to the satisfactory quality of the Lot or its fitness for any purpose.

The Seller will not be liable for any breach of any undertaking, whether implied by the Sale of Goods Ordinance Cap 26 or otherwise, as to the satisfactory quality of the Lot or its fitness for any purpose.

5 RISK, PROPERTY AND TITLE

5.1 Risk in the Lot passes to you after 7 days from the day upon which it is knocked down to you on the fall of the Auctioneer’s hammer in respect of the Lot, or upon collection of the Lot if earlier. The Seller will not be responsible thereafter for the Lot prior to you collecting it from Bonhams or the Storage Contractor, with whom you have separate contract(s) as Buyer. You will indemnify the Seller and keep the Seller fully indemnified from and against all claims, proceedings, costs, expenses and losses arising in respect of any injury, loss and damage caused to the Lot beyond 7 days from the day of the fall of the Auctioneer’s hammer until you obtain full title to it.

Title to the Lot remains in and is retained by the Seller until: (i) the Purchase Price and all other sums payable by you to Bonhams in respect of the Lot have been paid in full and to and received in cleared funds by Bonhams, and (ii) Bonhams has completed its investigations pursuant to clause 3.11 of the Buyer’s Agreement with Bonhams set out in Appendix 2 in the catalogue.

6 PAYMENT

Your obligation to pay the Purchase Price arises when the Lot is knocked down to you on the fall of the Auctioneer’s hammer in respect of the Lot.

Time will be of the essence in relation to payment of the Purchase Price and all other sums payable by you to Bonhams. Unless agreed in writing with you by Bonhams on the Seller’s behalf (in which case you must comply with the terms of that agreement), all such sums must be paid to Bonhams by you in the currency in which the Sale was conducted by not later than 4.30pm on the second working day following the Sale and you must ensure that the funds are cleared by the seventh working day after the Sale. Payment must be made to Bonhams by one of the methods stated in the Notice to Bidders unless otherwise agreed with you in writing by Bonhams. If you do not pay in full any sums due in accordance with this paragraph, the Seller will have the rights set out in paragraph 8 below.

7 COLLECTION OF THE LOT

Unless otherwise agreed in writing with you by Bonhams, the Lot will be released to you or to your order only when: (i) Bonhams has received cleared funds to the amount of the full Purchase Price and all other sums owed by you to the Seller and to Bonhams and (ii) Bonhams has completed its investigations pursuant to clause 3.11 of the Buyer’s Agreement with Bonhams set out in Appendix 2 in the Catalogue or e-catalogue.

The Seller is entitled to withhold possession from you of any other Lot he has sold to you at the same or at any other Sale and whether currently in Bonhams’ possession or not, until payment in full and in cleared funds of the Purchase Price and all other sums due to the Seller and/or Bonhams in respect of the Lot.
7.3 You should note that Bonhams has reserved the right not to release the Lot to you until its investigations under paragraph 3.11 of the Buyers’ Agreement set out in Appendix 2 have been completed to Bonhams’ satisfaction.

7.4 You will collect and remove the Lot at your own expense from Bonhams’ custody and/or control or from the Storage Contractor’s custody in accordance with Bonhams’ instructions or requirements.

7.5 You will be wholly responsible for packing, handling and transport of the Lot on collection and for complying with all import or export regulations in connection with the Lot.

7.6 You will be wholly responsible for any removal, storage or other charges or expenses incurred by the Seller if you do not remove the Lot in accordance with this paragraph 7 and will indemnify the Seller against all charges, costs, including any legal costs and fees, expenses and losses suffered by the Seller by reason of your failure to remove the Lot including any charges due under any Storage Contract. All such sums due to the Seller will be payable on demand.

8 FAILURE TO PAY FOR THE LOT

8.1 If the Purchase Price for a Lot is not paid to Bonhams in full in accordance with the Contract for Sale, the Seller will be entitled, with the prior written agreement of Bonhams but without further notice to you, to exercise one or more of the following rights (whether through Bonhams or otherwise):

8.1.1 to terminate immediately the Contract for Sale of the Lot for your breach of contract;

8.1.2 to resell the Lot by auction, private treaty or any other means on giving seven days’ written notice to you of the intention to resell;

8.1.3 to retain possession of the Lot;

8.1.4 to remove and store the Lot at your expense;

8.1.5 to take legal proceedings against you for any sum due under the Contract for Sale and/or damages for breach of contract;

8.1.6 to be paid interest on any monies due (after as well as before judgement or order) at the annual rate of 5% per annum above the base rate of the Hong Kong and Shanghai Banking Corporation from time to time to be calculated on a daily basis from the date upon which such monies become payable until the date of actual payment;

8.1.7 to repossess the Lot (or any part thereof) which has not become your property, and for this purpose (unless the Buyer buys the Lot as a Consumer from the Seller selling in the course of a Business) you hereby grant an irrevocable licence to the Seller by yourself and to his servants or agents to enter upon all or any of your premises (with or without vehicles) during normal Business hours to take possession of the Lot or part thereof;

8.1.8 to retain possession of any other property sold to you by the Seller at the Sale or any other auction or by private treaty until all sums due under the Contract for Sale shall have been paid in full in cleared funds;

8.1.9 to retain possession of, and on three months’ written notice to sell, Without Reserve, any of your other property in the possession of the Seller and/or of Bonhams (as bailee for the Seller) for any purpose (including, without limitation, other goods sold to you) and to apply any monies due to you as a result of such Sale in satisfaction or part satisfaction of any amounts owed to the Seller or to Bonhams; and

8.1.10 so long as such goods remain in the possession of the Seller or Bonhams as its bailee, to resell the contract for the Sale of any other goods sold to you by the Seller at the Sale or at any other auction or by private treaty and apply any monies received from you in respect of such goods in part or full satisfaction of any amounts owed to the Seller or to Bonhams by you.

8.2 You agree to indemnify the Seller against all legal and other costs of enforcement, all losses and other expenses and costs (including any monies payable to Bonhams in order to obtain the release of the Lot) incurred by the Seller (whether or not court proceedings have been issued) as a result of Bonhams taking steps under this paragraph 8 on a full indemnity basis together with interest thereon (after as well as before judgement or order) at the rate specified in paragraph 8.1.6 from the date upon which the Seller becomes liable to pay the same until payment by you.

8.3 On any resale of the Lot under paragraph 8.1.2, the Seller will account to you in respect of (i) any monies remaining from any monies received by him or on his behalf in respect of the Lot, after the payment of all sums due to the Seller and to Bonhams, within 28 days of receipt of such monies by him or on his behalf.

8.4 The Seller will not be liable for any injury, loss or damage caused by the Lot after the fall of the Auctioneer’s hammer in respect of the Lot.

9 THE SELLER’S LIABILITY

9.1 The Seller will not be liable for any injury, loss or damage caused by the Lot after the fall of the Auctioneer’s hammer in respect of the Lot.

9.2 Subject to paragraph 9.3 below, except for breach of the express warranties and undertakings provided in paragraph 2, the Seller will not be liable for any breach of any term that the Seller will correspond with any Description applied to it by or on behalf of the Seller, whether implied by the Sale of Goods Act 1979 or otherwise.

9.3 Unless the Seller sells the Lot in the course of a Business and the Buyer buys it as a Consumer

9.3.1 the Seller will not be liable (whether in negligence, other tort, breach of contract or statutory duty or in restitution or under the Misrepresentation Ordinance Cap 294, or in any other way) for any lack of conformity with, or inaccuracy, error, misdescription or omission in any Description of the Lot or any Entry or Estimate in relation to the Lot made by or on behalf of the Seller (whether

9.3.2 the Seller will not be liable for any loss of Business, Business profits or revenue or income or for loss of reputation or for disruption to Business or wasted time on the part of the Buyer or of the Buyer’s management or staff or for any indirect losses or consequential damages of any kind, irrespective in any case of the nature, volume or source of the loss or damage alleged to be suffered, and irrespective of whether the said loss or damage is caused by or claimed in respect of any negligence, other tort, breach of contract, statutory duty, restitutionary claim or otherwise;

9.3.3 in any circumstances where the Seller is liable to you, or death of the Lot or any act, omission, statement, or representation in respect of, or this agreement or its performance, and whether in damages, for an indemnity or contribution or for a restitutionary remedy or in any way whatsoever, the Seller’s liability will be limited to payment of a sum which will not exceed by way of maximum the amount of the Purchase Price of the Lot irrespective in any case of the nature, volume or source of any loss or damage alleged to be suffered or sum claimed as due, and irrespective of whether the liability arises from any negligence, other tort, breach of contract, statutory duty, bailee’s duty, restitutionary claim or otherwise.

Nothing set out in paragraphs 9.1 to 9.3 above will be construed as excluding or restricting (whether directly or indirectly) any person’s liability or excluding or restricting any person’s rights or remedies in respect of (i) fraud, or (ii) death or personal injury or of (i) death or personal injury or (iii) acts or omissions for which the Seller is liable under the Occupiers Liability Ordinance Cap 314, or (iv) any other liability to the extent the same may not be excluded or restricted as a matter of law.

MISCELLANEOUS

10.1 You may not assign either the benefit or burden of the Contract for Sale.

10.2 The Seller’s failure or delay in enforcing or exercising any power or right under the Contract for Sale will not operate or be deemed to operate as a waiver of his rights under it except to the extent of any express waiver given to you in writing. Any such waiver will not affect the Seller’s ability subsequently to enforce any right arising under the Contract for Sale.

10.3 If either party to the Contract for Sale is prevented from performing that party’s respective obligations under the Contract for Sale by circumstances beyond its reasonable control (including without limitation, governmental intervention, industrial action, insurrection, warfare (declared or undeclared) terrorism, power failure, epidemic or natural disaster) or if performance of its obligations would by
reason of such circumstances give rise to a significantly increased financial cost to it, that party will not, for so long as such circumstances prevail, be required to perform such obligations. This paragraph does not apply to the obligations imposed on you by paragraph 6.

10.4 Any notice or other communication to be given under the Contract for Sale must be in writing and may be delivered by hand or sent by first class post or air mail or fax transmission, if to the Seller, addressed c/o Bonhams at its address or fax number in the Catalogue (marked for the attention of the Company Secretary), and if to you to the address or fax number of the Buyer given in the Bidder Registration Form (unless notice of any change of address is given in writing). It is the responsibility of the sender of the notice or communication to ensure that it is received in a legible form within any applicable time period.

10.5 If any term or any part of any term of the Contract for Sale is held to be unenforceable or invalid, such unenforceability or invalidity will not affect the enforceability and validity of the remaining terms or the remainder of the relevant term.

10.6 References in the Contract for Sale to Bonhams will, where appropriate, include reference to Bonhams' officers, employees and agents and to any subsidiary of Bonhams Holdings Limited and to its officers, employees and agents.

10.7 The headings used in the Contract for Sale are for convenience only and will not affect its interpretation.

10.8 In the Contract for Sale "including" means "including, without limitation".

10.9 References to the singular will include reference to the plural (and vice versa) and reference to any one gender will include reference to the other genders.

10.10 Reference to a numbered paragraph is to a paragraph of the Contract for Sale.

10.11 Save as expressly provided in paragraph nothing in the Contract for Sale confers (or purports to confer) on any person who is not a party to the Contract for Sale any benefit conferred by, or the right to enforce any term of, the Contract for Sale.

10.12 Where the Contract for Sale confers an immunity from, and/or an exclusion or restriction of, the responsibility and/or liability of the Seller, it will also operate in favour and for the benefit of Bonhams, Bonhams' holding company and the subsidiaries of such holding company and the successors and assigns of Bonhams and of such companies and of any officer, employee and agent of Bonhams and such companies, each of whom will be entitled to rely on the relevant immunity and/or exclusion and/or restriction within and for the purposes of Contracts (Rights of Third Parties) Ordinance Cap 623, which enables the benefit of a contract to be extended to a person who is not a party to the contract, and generally at law.

11 GOVERNING LAW

All transactions to which the Contract for Sale applies and all connected matters will be governed by and construed in accordance with the laws of the Hong Kong Special Administrative Region where the Sale takes place and the Seller and you each submit to the exclusive jurisdiction of the courts of that part of the Hong Kong Special Administrative Region, save that the Seller may bring proceedings against you in any other court of competent jurisdiction to the extent permitted by the laws of the relevant jurisdiction. Bonhams has a complaints procedure in place.