

# 買家業務規則

下述條款可以在拍賣期間以公告或口頭通知的方式作出更改。在拍賣會中競投即表示競投人同意受下述條款的約束。

## 第一條 中國嘉德(香港)國際拍賣有限公司作為代理人

除另有約定外，中國嘉德(香港)國際拍賣有限公司作為賣家之代理人。拍賣品之成交合約，則為賣家與買家之間的合約。本規則、賣家業務規則、載於圖錄或由拍賣官公佈或於拍賣會場以通告形式提供之所有其他條款、條件及通知，均構成賣家、買家及/或中國嘉德(香港)國際拍賣有限公司作為拍賣代理之協定條款。

## 第二條 定義及釋義

(一) 本規則各條款內，除非文義另有不同要求，下列詞語具有以下含義：

- (1) “本公司”指中國嘉德(香港)國際拍賣有限公司；
- (2) “中國嘉德”指中國嘉德國際拍賣有限公司，其住所所地為中華人民共和國北京市東城區王府井大街1號嘉德藝術中心辦公區三層；
- (3) “賣家”指提供拍賣品出售之任何人士、公司、法團或單位。本規則中，除非另有說明或根據文義特殊需要，賣家均包括賣家的代理人(不包括本公司)、遺囑執行人或遺產代理人；
- (4) “競投人”指以任何方式考慮、作出或嘗試競投之任何人士、公司、法團或單位。本規則中，除非另有說明或根據文義特殊需要，競投人均包括競投人的代理人(但不包本公司)；
- (5) “買家”指在本公司舉辦的拍賣活動中，拍賣官所接納之最高競投價或要約之競投人，包括以代理人身份競投之人士之委託人；
- (6) “買家佣金”指買家根據本規則所載費率按落槌價須向本公司支付之佣金；
- (7) “拍賣品”指賣家委託本公司進行拍賣及於拍賣會上被拍賣的物品；
- (8) “拍賣日”指在某次拍賣活動中，本公司公佈的正式開始進行拍賣交易之日；
- (9) “拍賣成交日”指在本公司舉辦的拍賣活動中，拍賣官以落槌或者以其他公開表示買定的方式確認任何拍賣品達成交易的日期；
- (10) “拍賣官”指本公司指定主持某場拍賣並可決定落槌的人員；
- (11) “落槌價”指拍賣官落槌決定將拍賣品售予買家的價格，或若為拍賣會後交易，則為協定出售價；
- (12) “購買價款”指買家因購買拍賣品而應支付的包括落槌價加上買家須支付之佣金、以及應由買家支付的稅費、利息及買家負責的各項費用的總和；
- (13) “買家負責的各項費用”指與本公司出售拍賣品相關的支出和費用，包括但不限於本公司對拍賣品購買保險、包裝、運輸、儲存、保管、買家額外要求的有關任何拍賣品之測試、調查、查詢或鑑定

之費用或向違約買家追討之開支、法律費用等；

- (14) “底價”指賣家與本公司確定的且不公開之拍賣品之最低售價；
  - (15) “估價”指在拍賣品圖錄或其他介紹說明文字之後標明的拍賣品估計售價，不包括買家須支付之佣金；
  - (16) “儲存費”指買家按本規則規定應向本公司支付的儲存費用。
- (二) 在本規則條款中，根據上下文義，單數詞語亦包括複數詞語，反之亦然。除非文義另有要求：
- (1) 買家及本公司在本規則中合稱為“雙方”，而“一方”則指其中任何一方；
  - (2) 凡提及法律條文的，應解釋為包括這些條文日後的任何修訂或重新立法；
  - (3) 凡提及“者”或“人”的，應包括自然人、公司、法人、企業、合夥、個體商號、政府或社會組織及由他們混合組成的組織；
  - (4) 凡提及“條”或“款”的，均指本規則的條或款；
  - (5) 標題僅供方便索閱，不影響本規則的解釋。

## 第三條 適用範圍

凡參加本公司組織、開展和舉辦的文物、藝術品等收藏品的拍賣活動的競投人、買家和其他相關各方均應按照本規則執行。

## 第四條 特別提示

凡參加本公司拍賣活動的競投人和買家應仔細閱讀並遵守本規則，競投人、買家應特別仔細閱讀本規則所載之本公司之責任及限制、免責條款。競投人及/或其代理人有責任親自審看拍賣品原物，並對自己競投拍賣品的行為承擔法律責任。本公司有權自行決定因天氣或其它原因，將拍賣延期或取消，而無需向競投人作出任何賠償。

## 第五條 競投人及本公司有關出售拍賣品之責任

- (一) 本公司對各拍賣品之認知，部分依賴於賣家提供之資料，本公司無法及不會就各拍賣品進行全面盡職檢查。競投人知悉此事，並承擔檢查及檢驗拍賣品原物之責任，以使競投人滿意其可能感興趣之拍賣品。
- (二) 本公司出售之各拍賣品於出售前可供競投人審看。競投人及/或其代理人參與競投，即視為競投人已在競投前全面檢驗拍賣品，並滿意拍賣品之狀況及其描述之準確性。
- (三) 競投人確認眾多拍賣品年代久遠及種類特殊，意味拍賣品並非完好無缺。所有拍賣品均以拍賣時之狀態出售(無論競投人是否出席拍賣)。狀況報告或可於審看拍賣品時提供。圖錄描述及狀況報告在若干情況下可用作拍賣品某些瑕疵之參考。然而，競投人應注意，拍

賣品可能存在其他在圖錄或狀況報告內並無明確指出之瑕疵。

- (四) 提供予競投人有關於任何拍賣品之資料，包括任何預測資料(無論為書面或口述)及包括任何圖錄所載之資料、規則或其他報告、評論或估值，該等資料並非事實之陳述，而是本公司所持有之意見而已，該等資料可由本公司不時全權酌情決定修改。
- (五) 本公司或賣家概無就任何拍賣品是否受任何版權所限或買家是否已購買任何拍賣品之版權發出任何聲明或保證。
- (六) 受本規則第五(一)至五(五)條所載事項所規限及本規則第六條所載特定豁免所規限，本公司是基於(1)賣家向本公司提供的資料；(2)學術及技術知識(如有)；及(3)相關專家普遍接納之意見，以合理審慎態度發表(且與本規則中有關本公司作為拍賣代理的條款相符)載於圖錄的描述或狀況報告。

#### 第六條 對買家之責任豁免及限制

- (一) 受本規則第五條之事項所規限及受規則第六(一)及六(四)條所規限，本公司或賣家均無須：
- (1) 對本公司向競投人以口述或書面提供之資料之任何錯誤或遺漏負責，無論是由於疏忽或因其他原因引致；
- (2) 向競投人作出任何擔保或保證，且賣家委託本公司向買家作出之明示保證以外之任何暗示保證及條款均被排除(惟法律規定不可免除之該等責任除外)；
- (3) 就本公司有關拍賣或有關出售任何拍賣品之任何事宜之行動或遺漏(無論是由於疏忽或其他原因引致)，向任何競投人負責。
- (二) 除非本公司擁有出售之拍賣品，否則無須就賣家違反本規則而負責。
- (三) 在不影響規則第六(一)條之情況下，競投人向本公司或賣家提出之任何索賠以該拍賣品之落槌價連同買家佣金為限。本公司或賣家在任何情況下均無須承擔買家任何相應產生的間接損失。
- (四) 本規則第六條概無免除或限制本公司有關本公司或賣家作出之任何具欺詐成份之失實聲明，或有關本公司或賣家之疏忽行為或遺漏而導致之人身傷亡之責任。

#### 第七條 拍賣品圖錄及其他說明

本公司在關於拍賣品之圖錄或在拍賣品狀況報告內之所有陳述，或另行之口頭或書面陳述，均只屬意見之表述，而不應依據為事實之陳述。此陳述並不構成本公司任何形式之任何陳述、保證或責任承擔。圖錄或拍賣品狀況報告中所提及之有關瑕疵及修復，只作為指引，而應由競投人或具備有關知識之代表親自審看。未有提述本條前述資料，亦不表示拍賣品全無瑕疵或未經修復；而如已提述特定瑕疵，亦不表示並無其他瑕疵。

因印刷或攝影等技術原因造成拍賣品在圖錄及/或其他任何形式的圖示、影像製品和宣傳品中的色調、顏色、層次、形態等與原物存在誤差者，以原物為準。

本公司及其工作人員或其代理人對拍賣品任何說明中引述之出版著錄僅供競投人參考。本公司不提供著錄書刊等資料之原件或複印件，並保留修訂引述說明的權利。

#### 第八條 底價及估價

凡本公司拍賣品未標明或未說明無底價的，均設有底價。底價一般不高

於本公司於拍賣前公佈或刊發的拍賣前低估價。如拍賣品未設底價，除非已有競投，否則拍賣官有權自行決定起拍價，但不得高於拍賣品的拍賣前低估價。

在任何情況下，本公司不對拍賣品在本公司舉辦的拍賣會中未達底價不成交而承擔任何責任。若拍賣品競投價格低於底價，拍賣官有權自行決定以低於底價的價格出售拍賣品。但在此種情況下，本公司向賣家支付之款項為按底價出售拍賣品時賣家應可收取之數額。

估價在拍賣日前較早時間估定，並非確定之售價，不具有法律約束力。任何估價不能作為拍賣品落槌價之預測，且本公司有權不時修訂已作出之估價。

#### 第九條 競投人登記

競投人為個人的，應在拍賣日前憑政府發出附有照片的身份證明文件(如居民身份證或護照)填寫並簽署登記文件，並提供現時住址證明(如公用事業賬單或銀行月結單)；競投人為公司或者其他組織的，應在拍賣日前憑有效的註冊登記文件、股東證明文件以及合法的授權委託證明文件填寫並簽署登記文件，領取競投號牌。本公司可能要求競投人出示用作付款的銀行資料或其他財政狀況證明。

#### 第十條 競投號牌

本公司可根據不同拍賣條件及拍賣方式等任何情況，在拍賣日前公佈辦理競投號牌的條件和程序，包括但不限於制定競投人辦理競投號牌的資格條件。

本公司鄭重提示，競投號牌是競投人參與現場競價的唯一憑證。競投人應妥善保管，不得將競投號牌出借他人使用。一旦丟失，應立即以本公司認可的書面方式辦理掛失手續。

無論是否接受競投人的委託，凡持競投號牌者在拍賣活動中所實施的競投行為均視為競投號牌登記人本人所為，競投人應當對其行為承擔法律責任，除非競投號牌登記人本人已以本公司認可的書面方式，在本公司辦理了該競投號牌的掛失手續，並由拍賣官現場宣佈該競投號牌作廢。

#### 第十一條 競投保證金

競投人參加本公司拍賣活動，應在領取競投號牌前交納競投保證金。競投保證金的數額由本公司在拍賣日前公佈，且本公司有權減免競投保證金。若競投人未能購得拍賣品且對本公司、本公司的分部、附屬公司、子公司、母公司、中國嘉德、中國嘉德的分部、附屬公司、子公司、母公司無任何欠款，則該保證金在拍賣結束後十四個工作日內全額無息返還競投人；若競投人成為買家的，則該保證金自動轉變為支付拍賣品購買價款的定金。

#### 第十二條 本公司之選擇權

本公司有權酌情拒絕任何人參加本公司舉辦的拍賣活動或進入拍賣現場，或在拍賣會現場進行拍照、錄音、攝像等活動。

#### 第十三條 以當事人身份競投

除非某競投人在拍賣日前向本公司出具書面證明並經本公司書面認可，表明其身份是某競投人的代理人，否則每名競投人均被視為競投人本人。

#### 第十四條 委託競投

競投人應親自出席拍賣會。如不能親身出席或由代理人出席，可採用書面形式委託本公司代為競投。本公司有權決定是否接受上述委託。

委託本公司競投之競投人應在規定時間內(不遲於拍賣日前二十四小時)辦理委託手續，向本公司出具填妥的本公司委託競投表格，並應根據本規則規定同時交納競投保證金。

委託本公司競投之競投人如需取消委託競投，應不遲於拍賣日前二十四小時書面通知本公司。

#### 第十五條 委託競投的競投結果

競投人委託本公司代為競投的，競投結果及相關法律責任由競投人承擔。

競投人如在委託競投表格中表示以電話等即時通訊方式競投，則應準確填寫即時通訊方式(如號碼)並妥善保管該即時通訊工具，在本公司受託競投期間，競投人應親自使用該即時通訊工具，一旦丟失或無法控制該即時通訊工具，應立即以本公司認可的書面方式變更委託競投表格中填寫的即時通訊方式。

在本公司受託競投期間，會盡適當努力聯絡競投人，而該即時通訊工具所傳達之競投信息(無論是否競投人本人或競投人的代理人傳達)，均視為競投人本人所為，競投人應當對其行為承擔法律責任，除非競投人本人已以本公司認可的書面方式變更了委託競投表格中填寫的即時通訊方式。但在任何情況下，如未能聯絡，或在使用該即時通訊工具的競投中有任何錯誤、中斷或遺漏，本公司均不負任何責任。

#### 第十六條 委託競投之免費

鑒於委託競投是本公司為競投人提供的代為傳遞競投信息的免費服務，本公司及其工作人員對競投未成功或代理競投過程中出現的任何錯誤、遺漏、疏忽、過失或無法代為競投等不承擔任何責任。

#### 第十七條 委託在先原則

若兩個或兩個以上委託本公司競投之競投人以相同委託價對同一拍賣品出價且最終拍賣品以該價格落槌成交，則最先將委託競投表格送達本公司者為該拍賣品的買家。

#### 第十八條 拍賣官之決定權

拍賣官對下列事項具有絕對決定權：

- (一) 拒絕或接受任何競投；
- (二) 以其決定之方式進行拍賣；
- (三) 將任何拍賣品撤回或分開拍賣，將任何兩件或多件拍賣品合併拍賣；
- (四) 如遇有出錯或爭議時，不論在拍賣之時或拍賣之後，有權決定成功競投者、是否繼續拍賣、取消拍賣或將有爭議的拍賣品重新拍賣；
- (五) 拍賣官可以在其認為合適的水平及競價階梯下開始及進行競投，並有權代表賣家以競投或連續競投方式或以回應其他競投人的競投價而競投的方式，代賣家競投到底價的金額；
- (六) 採取其合理認為適當之其他行動。

#### 第十九條 不設底價

就不設底價的拍賣品，除非已有競投，否則拍賣官有權自行酌情決定開價。若在此價格下並無競投，拍賣官會自行酌情將價格下降繼續拍賣，直至有競投人開始競投，然後再由該競投價向上繼續拍賣。

#### 第二十條 影像顯示板及貨幣兌換顯示板

本公司為方便競投人，可能於拍賣中使用影像投射或其他形式的顯示板，所示內容僅供參考。無論影像投射或其他形式的顯示板所示之數額、拍賣品編號、拍賣品圖片或參考外匯金額等信息均有可能出現誤差，本公司對因此誤差而導致的任何損失不承擔任何責任。

#### 第二十一條 拍賣成交

最高競投價經拍賣官落槌或者以其他公開表示買定的方式確認時，該競投人競投成功，即表明該競投人成為拍賣品的買家，亦表明賣家與買家之間具法律約束力的拍賣合約之訂立。

#### 第二十二條 佣金及費用

競投人競投成功後，即成為該拍賣品的買家。買家應支付本公司佣金，其計算方式如下：每件拍賣品的落槌價中，在港元5,000,000或以下之部分，該部分金額的佣金以18%計算；超過港元5,000,000至港元20,000,000之部份，該部分金額的佣金以15%計算；超過港元20,000,000之部份，該部分金額的佣金以12%計算。買家同時應支付給本公司其他買家負責的各項費用，且認可本公司可根據本公司賣家業務規則的規定，向賣家收取佣金及其他賣家負責的各項費用。

#### 第二十三條 稅項

買家向本公司支付的所有款項均應是淨額的，不得包括任何貨物稅、服務稅、關稅或者其他增值稅(不論是由香港或其他地區所徵收)。如有任何適用於買家的稅費，買家應根據現行相關法律規定自行負擔。

#### 第二十四條 付款時間

拍賣成交後，除非另有書面約定，否則不論拍賣品之出口、進口或其他許可證(不論是否就時間)之任何規定，買家應自拍賣成交日起七日內，向本公司付清購買價款並提取拍賣品。若涉及包裝及搬運費用、運輸及保險費用、出境費等，買家需一併支付。

#### 第二十五條 支付幣種

所有價款應以港幣支付。如買家以港幣以外的其他貨幣支付，應按買家與本公司約定的匯價折算或按照香港匯豐銀行於買家付款日前一個工作日公佈的港幣與該幣種的匯價折算。本公司為將買家所支付之該種外幣兌換成港幣所引致之所有銀行手續費、佣金或其他費用，均由買家承擔。

#### 第二十六條 所有權的轉移

即使本公司未將拍賣品交付給買家，買家已取得拍賣品之所有權，但在買家付清購買價款及所有買家欠付本公司、本公司的分部、附屬公司、子公司、母公司、中國嘉德、中國嘉德的分部、附屬公司、子公司、母公司的所有款項之前，本公司及/或賣方可以對拍賣品行使管有權及/或留置權或法律容許的其它救濟。

#### 第二十七條 風險轉移

競投成功後，拍賣品的風險於下列任何一種情形發生後(以較早發生日期為準)即由買家自行承擔：

- (一) 買家提取所購拍賣品；或

- (二) 買家向本公司支付有關拍賣品的全部購買價款；或
- (三) 拍賣成交日起七日屆滿。

### 第二十八條 提取拍賣品

買家須在拍賣成交日起七日內，前往本公司地址或本公司指定之其他地點提取所購買的拍賣品。買家須自行負責於風險轉移至買家後為所購拍賣品購買保險。若買家未能在拍賣成交日起七日內提取拍賣品，則逾期後對該拍賣品的相關保管、搬運、保險等費用均由買家承擔，且買家應對其所購拍賣品承擔全部責任。逾期後，即使該拍賣品仍由本公司或其他代理人代為保管，本公司及其工作人員或其代理人對任何原因所致的該拍賣品的毀損、滅失，不承擔任何責任。

### 第二十九條 包裝及付運

本公司工作人員根據買家要求代為包裝及處理購買的拍賣品，僅視為本公司對買家提供的服務，本公司可酌情決定是否提供此項服務，若因此發生任何損失均由買家自行承擔。在任何情況下，本公司對因任何原因造成的玻璃或框架、囊匣、底墊、支架、裝裱、插冊、軸頭或類似附屬物的損壞不承擔責任。此外，對於本公司向買家推薦的包裝公司及裝運公司所造成的一切錯誤、遺漏、損壞或滅失，本公司亦不承擔責任。

### 第三十條 進出口及許可證

買家須自行負責取得任何有關拍賣品進出口、瀕臨絕種生物或其他方面之許可證。未獲得任何所需之許可證或延誤取得該類許可證，不可被視為買家取消購買或延遲支付購買價款之理由。本公司不承擔因不能填妥或呈交所需出口或進口貨單、清單或文件所產生之任何責任。如買家要求本公司代其申請出口許可證，本公司則有權就此服務另行收取服務費用。然而，本公司不保證出口許可證將獲發放。本公司及賣家概無就任何拍賣品是否受進出口限制或任何禁運作出聲明或保證。

### 第三十一條 未付款之補救方法及強制履行

若買家未按照本規則規定或未按照與本公司協定之任何付款安排足額付款，本公司有權採取以下之一種或多種措施：

- (一) 在拍賣成交日起七日內，如買家未向本公司付清全部購買價款，本公司有權委託第三方機構代為向買家催要欠付的全部或部分購買價款；
- (二) 在拍賣成交日起七日內，如買家仍未足額支付購買價款，本公司有權自拍賣成交日後第八日起就買家未付款部分按照日息萬分之三收取利息，直至買家付清全部款項之日止，買家與本公司另有協議者除外；
- (三) 在本公司或其他地方投保、移走及儲存拍賣品，風險及費用均由買家承擔；
- (四) 對買家提起訴訟，要求賠償本公司因買家遲付或拒付款項造成的利息損失；
- (五) 留置同一買家在本公司投得的該件或任何其他拍賣品，以及因任何原因由本公司佔有該買家的任何其他財產或財產權利，留置期間發生的一切費用及/或風險均由買家承擔。若買家未能在本公司指定時間內履行其全部相關義務，則本公司有權在向買家發出行使留置權通知且買家在該通知發出後三十日內仍未償清所有欠付款項的情況下，處分留置物。處分留置物所得不足抵償買家應付本公司全部款

項的，本公司有權另行追索；

- (六) 在拍賣成交日起九十日內，如買家仍未向本公司付清全部購買價款的，本公司有絕對酌情決定權撤銷(但無義務)或同意賣方撤銷交易，並保留追索因撤銷該筆交易致使本公司所蒙受全部損失的權利；
- (七) 將本公司、本公司的分部、附屬公司、子公司、母公司、中國嘉德、中國嘉德的分部、附屬公司、子公司、母公司在任何其他交易中欠付買家之款項抵銷買家欠付本公司關於拍賣品之任何款項；
- (八) 本公司可自行決定將買家支付的任何款項用於清償買家欠付本公司、本公司的分部、附屬公司、子公司、母公司、中國嘉德、中國嘉德的分部、附屬公司、子公司、母公司關於拍賣品或其他交易之任何款項；
- (九) 拒絕買家或其代理人將來作出的競投，或在接受其競投前收取競投保證金。

本公司知悉就拍賣品之買賣而言，是獨特和無可替代的，不論是賣方或買方違約，一方對另一方支付損害賠償，均不是對守約方足夠的救濟。因此，本公司、賣方和買方均同意，任何一方違約的，守約方可以向法院申請強制履行的命令，要求違約方繼續履行其在本規則或其它相關文件項下的義務。

### 第三十二條 延期提取拍賣品之補救方法

若買家未能在拍賣成交日起七日內提取其購得的拍賣品，則本公司有權採取以下之一種或多種措施：

- (一) 將該拍賣品投保及/或儲存在本公司或其他地方，由此發生的一切費用(包括但不限於自拍賣成交日起的第三十一日起按競投人登記表格的規定計收儲存費等)及/或風險均由買家承擔。在買家如數支付全部購買價款後，方可提取拍賣品(包裝及搬運費用、運輸及保險費用、出境費等自行負擔)；
- (二) 買家應對其超過本規則規定期限未能提取相關拍賣品而在該期限屆滿後所發生之一切風險及費用自行承擔責任。

### 第三十三條 有限保證

- (一) 本公司對買家提供之一般保證：

如本公司所出售之拍賣品其後被發現為贗品，根據本規則之條款，本公司將取消該交易，並將買家就該拍賣品支付予本公司之落槌價連同買家佣金，以原交易之貨幣退還予買家。

就此而言，根據本公司合理之意見，贗品指仿製品，故意隱瞞或欺騙作品出處、原產地、產出年數、年期、文化或來源等各方面，而上述各項之正確描述並無收錄於目錄內容(考慮任何專有詞彙)。拍賣品之任何損毀及/或任何類型之復原品及/或修改品(包括重新塗漆或在其上塗漆)，不應視為贗品。

謹請注意，如發生以下任何一種情況，本保證將不適用：

目錄內容乃根據學者及專家於銷售日期獲普遍接納之意見，或該目錄內容顯示該等意見存在衝突；或

於銷售日期，證明該拍賣品乃贗品之唯一方法，並非當時普遍可用或認可或價格極高或用途不切實際；或可能已對拍賣品造成損壞或可能(根據本公司合理之意見)已令拍賣品喪失價值之方法；或如根據拍賣品之描述，該拍賣品並無喪失任何重大價值。

- (二) 本保證所規定之期限為相關拍賣日後五年內，純粹提供給買家之獨

享利益，且不可轉移至任何第三方。為能依據本保證申索，買家必須：

在收到任何導致買家質疑拍賣品之真偽或屬性之資料後三個月內以書面通知本公司，註明拍賣品編號、購買該拍賣品之日期及被認為是贗品之理由；

將狀況與銷售予買家當日相同，並能轉移其妥善所有權且自銷售日期後並無出現任何第三方申索之拍賣品退還予本公司。

(三) 有關現代及當代藝術、中國油畫以及中國書畫，雖然目前學術界不容許對此類別作出確實之說明，但本公司保留酌情權按本保證但以拍賣日後一年內為限取消證實為贗品之現代及當代藝術、中國油畫以及中國書畫拍賣品之交易；已付之款項按本條規定退還予買家，但買家必須在拍賣日起一年內向本公司提供證據(按本條第(二)、(四)款規定的方式)，證實該拍賣品為贗品；

(四) 本公司可酌情決定豁免上述任何規定。本公司有權要求買家索取兩名為本公司及買家雙方接納之獨立及行內認可專家之報告，費用由買家承擔。本公司無須受買家出示之任何報告所規限，並保留權利尋求額外之專家意見，費用由本公司自行承擔。

#### 第三十四條 資料獲取、錄影

就經營本公司的拍賣業務方面，本公司可能對任何拍賣過程進行錄音、錄影及記錄，亦需要向競投人搜集個人資料或向第三方索取有關競投人的資料(例如向銀行索取信用審核)。這些資料會由本公司處理並且保密，唯有關資料有可能根據本規則的目的或其它合法目的，提供給本公司、本公司的分部、附屬公司、子公司、母公司、中國嘉德、中國嘉德的分部、附屬公司、子公司、母公司，以協助本公司為競投人提供完善的服務、進行客戶分析，或以便提供符合競投人要求的服務。在本規則項下的交易完成後(如適用)，本公司可在法律容許的合理時間內，保存及使用已收集的個人資料。如競投人或買家欲查閱及/或更正存於本公司的個人資料，可書面致函本公司(連同合理的行政費)提出有關要求。為了競投人的權益，本公司亦可能需要向第三方服務供應商(例如船運公司或存倉公司)提供競投人的部份個人資料。競投人參與本公司的拍賣，即表示競投人同意上文所述。如競投人欲獲取或更改個人資料，請與客戶服務部聯絡。

#### 第三十五條 版權

賣家授權本公司對其委託本公司拍賣的任何拍賣品製作照片、圖示、圖錄或其他形式的影像製品和宣傳品，本公司享有上述照片、圖示、圖錄或其他形式的影像製品和宣傳品的版權，有權對其依法加以無償使用。未經本公司事先書面同意，買家及任何人不得使用。本公司及賣家均並未作出拍賣品是否受版權所限或買家是否取得拍賣品之任何版權的陳述及保證。

#### 第三十六條 通知

競投人及買家均應將其固定有效的通訊地址和聯絡方式以競投登記文件或其他本公司認可的方式告知本公司，若有改變，應立即書面告知本公司。

本規則中所提及之通知，僅指以信函、電子郵件或傳真形式發出的書面通知。該等通知在下列時間視為送達：

(一) 如是專人送達的，當送到有關方之地址時；

(二) 如是以郵寄方式發出的，則為郵寄日之後第七天；

(三) 如是以傳真方式發出的，當發送傳真機確認發出時；

(四) 如果是以電子郵件形式發出的，當在電子郵件記錄上確認發出之時。

#### 第三十七條 可分割性

如本規則之任何條款或部分因任何理由被認為無效、不合法或不可執行，本規則其他條款或部分仍然有效，相關各方應當遵守、執行。

#### 第三十八條 法律及管轄權

本規則及其相關事宜、交易、因依照本規則參加本公司拍賣活動而引起或與之有關的任何爭議，均受香港法律規管並由香港法律解釋，本公司、賣家、買家及競投人等相關各方均須服從香港法院之唯一管轄權。

#### 第三十九條 語言文本

本規則以中文為標準文本，英文文本為參考文本。

英文文本如與中文文本有任何不一致之處，以中文文本為準。

#### 第四十條 規則版權所有

本規則由本公司制訂和修改，相應版權歸本公司所有。未經本公司事先書面許可，任何人不得以任何方式或手段，利用本規則獲取商業利益，亦不得對本規則之任何部分進行複製、傳送或儲存於可檢索系統中。

#### 第四十一條 適用時期

本規則只適用於本次拍賣，本公司可不時更新本規則，競投人和買家參與另一次拍賣的時候應以當時適用的買家業務規則為準。

#### 第四十二條 解釋權

日常執行本規則時，本規則的解釋權由本公司行使。如買家、賣家與本公司發生法律爭議，在解決該爭議時，本規則的解釋權由具管轄權的法院行使。

版本日期：2018年3月8日

本公司地址：香港皇后大道中183號中遠大廈3001室

# CONDITIONS OF BUSINESS FOR BUYERS

**The following provisions may be amended by public notice or verbal notification during the auction. By bidding at the auction, the Bidder agrees to be bound by the following provisions.**

## **Article 1 China Guardian (Hong Kong) Auctions Co., Ltd. as the Auction Agent**

Unless otherwise provided, China Guardian (Hong Kong) Auctions Co., Ltd. shall serve as the Seller's agent. The contract for the sale of the Auction Property shall be the contract between the Seller and the Buyer. These Conditions, the Conditions of Business for Sellers, and all other terms, conditions and notices contained in the catalogue, announced by the Auctioneer or provided in the auction venue in the form of an announcement shall constitute the terms agreed among the Seller, the Buyer and/or China Guardian (Hong Kong) Auctions Co., Ltd. as the auction agent.

## **Article 2 Definitions and Explanations**

1. The following terms herein shall have the meanings assigned to them below:

- (1) "Company" means China Guardian (Hong Kong) Auctions Co., Ltd.;
- (2) "China Guardian" means China Guardian Auctions Co., Ltd., with its domicile at 3/F, Office Area, Guardian Art Center, No.1 Wangfujing Street, Dongcheng District, Beijing, People's Republic of China;
- (3) "Seller" means any person, company, body corporate or entity that offers Auction Property for sale. Unless otherwise stated or specifically required by the context, the term "Seller" herein shall include the Seller's agent (excluding the Company), executor or personal representative;
- (4) "Bidder" means any person, company, body corporate or entity that contemplates, makes or attempts a bid in any manner. Unless otherwise stated or specifically required by the context, the term "Bidder" herein shall include the Bidder's agent;
- (5) "Buyer" means the Bidder, including the principal of a person bidding as an agent, the highest bid or offer of whom is accepted by the Auctioneer in the auction held by the Company;
- (6) "Buyer's Commission" means the commission that the Buyer must pay to the Company based on the Hammer Price at the rate specified herein;
- (7) "Auction Property" means the item(s) that the Seller consigns to the Company for auction and which are auctioned off at the auction;
- (8) "Auction Date" means, for a particular auction, the date announced by the company on which the auction will officially commence;
- (9) "Sale Date" means the date on which the transaction of an Auction Property is confirmed by the striking of the hammer by the Auctioneer or other public indication by the Auctioneer that a transaction has been struck in the auction held by the Company;
- (10) "Auctioneer" means the person that the Company designates to preside over a particular auction;
- (11) "Hammer Price" means the price at which the Auctioneer strikes the hammer, deciding the sale of the Auction Property to the Buyer, or, in the case of a post-auction transaction, the agreed upon sale price;
- (12) "Purchase Price" means the total amount that the Buyer is required to pay for his or her purchase of an Auction Property, including the Hammer Price plus the Buyer's Commission, and the taxes, levies, interest and various charges payable by the Buyer;
- (13) "Buyer Charges" means the expenditures and expenses relating to the sale of an Auction Property by the Company, including but not limited to the charges for insurance, packing, transport, storage and custody that the Company is required to purchase in respect of the Auction Property, expenses for testing,

investigation, searching or authentication of an Auction Property additionally requested by the Buyer and additional expenditures and legal expenses incurred in seeking recourse against a defaulting Buyer;

- (14) "Reserve" means the confidential minimum selling price for an Auction Property determined by the Seller and the Company;
  - (15) "Estimated Price" means the estimated sales price of an Auction Property indicated in the catalogue or after other descriptive text, and excluding the Buyer's Commission;
  - (16) "Storage Fee" means the charge for storage that the Buyer is required to pay to the Company in accordance herewith.
2. As required by the context, the singular of a term herein includes the plural thereof, and vice versa. Unless otherwise required by the context:
- (i) the Buyer and the Company are herein collectively referred to as the "Parties", and a "Party" refers to either Party;
  - (ii) Any mention of legal provisions shall be construed as including any future amendments to, or re-enactment of, such provisions;
  - (iii) Any mention of "person" shall include natural persons, companies, legal persons, enterprises, partnerships, individual proprietorships, governmental or social organizations and organizations comprised of more than one of the foregoing;
  - (iv) Any mention of "Article" or "Clause" refers to the Articles or Clauses hereof;
  - (v) The headings are provided for ease of reference only, and shall not affect the interpretation hereof.

## **Article 3 Applicable Scope**

All Bidders, Buyers and other concerned parties participating in the auction of such collectibles as cultural artifacts, works of art, etc. organized and conducted by the Company shall act in accordance herewith.

## **Article 4 Special Notice**

All Bidders and Buyers participating in the auction by the Company shall carefully read and abide by these Conditions, and, in particular, they shall carefully read the provisions hereof on the liability of the Company, the restrictive provisions, and the disclaimers. The Bidder and/or his or her agent is/are responsible for viewing the original Auction Properties in person, and shall be legally liable for his or her bidding on the Auction Properties. The Company may at its own discretion postpone or cancel any auction due to weather or other reasons and shall not be liable to make any compensation to the Bidder.

## **Article 5 Responsibilities of the Bidder and the Company in Respect of the Auction Properties**

1. The Company's perception of an Auction Property is partly dependent on the information provided by the Seller, the Company is in no position to and will not carry out comprehensive due diligence of the Auction Properties. The Bidder is aware of this and shall be responsible for inspecting and examining the original Auction Properties so as to satisfy himself or herself in respect of those Auction Properties which he or she may be interested in.
2. All Auction Properties to be sold by the Company are available for viewing by the Bidder before sale. Where the Bidder and/or his or her agent participates in bidding, the Bidder shall be deemed as having thoroughly examined the Auction Properties, and to be satisfied with the condition of, and the accuracy of the description of, the Auction Properties.
3. The Bidder confirms that numerous Auction Properties are of great age and of special types, meaning that they are not necessarily sound and free from defects.

All Auction Properties are sold "as is" at the time of the auction (whether or not the Bidder attends the auction in person). Condition reports may be provided at the time of viewing the Auction Properties. Under certain circumstances, the catalogue descriptions and condition reports may serve as reference about certain defects in the Auction Properties. Nevertheless, the Bidder should note that the Auction Properties may have other defects not expressly stated in the catalogue or condition reports.

4. The information concerning any Auction Property provided to the Bidder, including any forecast information (written or verbal), and any information, rules or other reports, commentaries or estimated values contained in the catalogues, are not statements of fact, but rather statements of the opinions held by the Company. Such information may be revised at the sole discretion of the Company from time to time.
5. Neither the Company nor the Seller gives any representations or warranties as to whether any Auction Property is subject to any copyright or whether the Buyer has bought the copyright in any Auction Property.
6. Subject to Articles 5(1) to 5(5) and the specific exemptions contained in Article 6 hereof, the catalogue descriptions and condition reports are made by the Company in a reasonable and prudent manner (consistent with the provisions relating to the Company as the Auction Agent) based on (1) the information provided by the Seller to the Company; (2) academic and technical knowledge (if any); and (3) generally accepted opinions of relevant experts.

#### **Article 6 Exemption of Liability Toward the Buyer and Limitations**

1. Subject to Article 5 and Articles 6(1) and 6(4) hereof, the Company or the Seller shall not:
  - (1) be liable for any errors or omissions in the information provided by the Company to the Bidder, whether verbally or in writing, regardless of whether due to negligence or otherwise;
  - (2) give any guarantee or warranty to the Bidder, and any implied warranties or conditions other than the express warranties given by the Seller to the Buyer through the Company are excluded (except where it is provided in law that such liabilities may not be exempted);
  - (3) be liable to any Bidder for any actions or omissions in respect of any matter relating to the auction or sale of any Auction Property by the Company (regardless of whether due to negligence or otherwise).
2. Unless the Company owns the Auction Property to be sold, it shall not be liable for any breach of these Conditions by the Seller.
3. Without prejudice to Article 6(1) hereof, the amount of any claim that a Bidder may lodge against the Company or the Seller shall be limited to the Hammer Price of the Auction Property and the Buyer's Commission. Under no circumstance shall the Company or the Seller bear any consequential losses incurred by the Buyer.
4. Article 6 hereof does not exempt or restrict the liability of the Company for any fraudulent misrepresentation made by the Company or the Seller, nor for any personal injury or death arising due to the negligence of or an omission by the Company or the Seller.

#### **Article 7 Catalogue and Other Descriptions of the Auction Property**

All statements made by the Company about an Auction Property in the catalogue or in the condition reports, or separately made verbally or in writing, are statements of opinion only, and shall not be relied upon as statements of fact. Such statements do not constitute any representation, warranty or assumption of liability by the Company in any form. The relevant defects and restorations mentioned in the catalogue or the condition report for an Auction Property are for guidance only and shall be reviewed in person by the Bidder or a representative with the relevant knowledge. The absence of a reference to the above-mentioned information does not mean that the Auction Property is completely free from defects or has never been restored. Furthermore, even if reference is made to a specific defect, this does not mean there are no other defects.

Where there is a discrepancy between the tone, colour, texture or shape of an Auction Property in the catalogue and/or in any other manner of illustration, video recording or publicity materials and that of the original, due to printing, photographic or other such technical reason, the actual Auction Property shall prevail.

Bibliographies cited in any description of an Auction Property by the Company, its employees or its agents are for the Bidder's reference only. The Company will not provide the originals or photocopies of the bibliographic publications or other such

materials, and reserves the right to revise the cited descriptions.

#### **Article 8 Reserve and Estimated Price**

A Reserve is set for all of the Company's Auction Properties, unless it is indicated or stated that an Auction Property is not subject to such a Reserve. In general, the Reserve is not higher than the low Estimated Price announced or published before the auction by the Company. If a Reserve has not been set for an Auction Property, unless there already have been bids, the Auctioneer shall have the right, at his or her discretion, to decide the starting price, which, however, may not be higher than the low Estimated Price of the Auction Property before the auction.

Under no circumstance shall the Company bear any liability in the event that the bids for an Auction Property fail to reach the Reserve at the auction held by the Company. If the bids for an Auction Property are lower than the Reserve, the Auctioneer shall have the right, at his or her discretion, to sell the Auction Property at a price lower than the Reserve. However, under such a circumstance, the amount that the Company shall pay the Seller shall be the amount that the Seller would have received had the Auction Property been sold at the Reserve.

An Estimated Price is estimated some time before the Auction Date, is not a definitive selling price, and is not legally binding. No Estimated Price may serve as a forecast of the Hammer Price for an Auction Property, and the Company has the right to revise from time to time Estimated Price(s) that have already been made.

#### **Article 9 Bidder Registration**

Where the Bidder is an individual, he or she shall fill in and sign before the Auction Date the registration documents on the strength of an identity document with photo issued by the government (such as a resident identity card or passport), and provide proof of his or her current address (e.g. a utility bill or bank statement); where the Bidder is a company or other organization, it shall fill in and sign the registration documents on the strength of its valid incorporation document, proof of shareholding and lawful authorization document, and collect a paddle before the Auction Date. The Company may request the Bidder to present banking information for making payment or other proof of financial standing.

#### **Article 10 Paddle**

The Company may, depending on the auction conditions and auction method, announce before the Auction Date the conditions and procedures for obtaining a paddle, including but not limited to formulating the qualification conditions necessary for Bidders to carry out the procedures for obtaining a paddle.

The Company solemnly reminds the Bidder that a paddle is the sole proof for the Bidder to participate in the bidding in person. The Bidder shall keep the same in safe custody and may not lend the same to other persons. In the event it is lost, the Bidder shall promptly carry out the loss report procedures by way of a written method approved by the Company.

All of the bidding acts carried out during the auction by a paddle holder, regardless of whether he or she has been appointed by the Bidder, shall be deemed as having been done by the paddle registrant himself or herself, and the Bidder shall bear the legal liability for the acts of such person, unless the paddle registrant has himself or herself carried out with the Company the procedures for reporting the loss of a paddle by way of a written method approved by the Company, and the paddle in question is declared void by the Auctioneer on the spot.

#### **Article 11 Bid Deposit**

When the Bidder participates in the Company's auction, he or she shall pay a bid deposit before collecting the paddle. The amount of the bid deposit shall be announced by the Company before the Auction Date, and the Company has the right to reduce or waive the bid deposit. If the Bidder fails to buy an Auction Property and does not have any amounts owing to the Company, its divisions, affiliates, subsidiaries or parent, or China Guardian, its divisions, affiliates, subsidiaries or parent, the entire amount of the bid deposit shall be refunded to the Bidder without interest within 14 working days after conclusion of the auction. If the Bidder becomes the Buyer, the bid deposit shall automatically be transformed into the deposit for payment of the Purchase Price of the Auction Property.

#### **Article 12 Discretion of the Company**

The Company has the right, at its discretion, to refuse anyone from participating in the auction held by the Company, entering the auction venue, or taking photos,

audio recordings or video recordings, etc. in the auction venue.

#### **Article 13 Bidding as Principal**

Unless a particular Bidder has presented written proof to the Company indicating that he or she is the agent of a particular Bidder and the same has been approved in writing by the Company, each Bidder shall be deemed to be the Bidder himself or herself.

#### **Article 14 Absentee Bids**

The Bidder shall attend the auction in person. If he or she cannot attend in person or by way of an agent, he or she may appoint the Company in writing to bid on his or her behalf. The Company shall have the right to decide whether or not to accept such an appointment.

If the Bidder wishes to appoint the Company to bid on his or her behalf, he or she shall carry out the appointment procedures by the prescribed deadline (no later than 24 hours before the Auction Date), present a duly completed Absentee Bid Form to the Company, and additionally pay the bid deposit pursuant to these Conditions.

If, having appointed the Company to bid on his or her behalf, the Bidder wishes to cancel the appointment, he or she shall notify the Company in writing no later than 24 hours before the Auction Date.

#### **Article 15 Outcome of Absentee Bid**

If the Bidder has appointed the Company to bid on his or her behalf, the bid outcome and relevant legal liabilities shall be borne by him or her.

If the Bidder indicates on the Absentee Bid Form that he or she will bid by an instant communication method, such as by telephone, he or she shall accurately provide the instant communication method and keep such instant communication instrument in safe custody. While the Company is appointed to bid on the behalf of the Bidder, the Bidder shall personally use the instant communication instrument. In event of loss of, or loss of the control of, the instant communication instrument in question, the Bidder shall promptly revise by way of a written method approved by the Company the instant communication method provided on the Absentee Bid Form.

While the Company is appointed to bid on the Bidder's behalf, it will use all appropriate effort to contact the Bidder, and all of the bidding information transmitted by the instant communication instrument (regardless of whether it is transmitted by the Bidder himself or herself or the Bidder's Agent) shall be deemed as having been transmitted by the Bidder himself or herself, and the Bidder shall be legally liable for the actions thereof, unless the Buyer has himself or herself altered by way of a written method approved by the Company the instant communication method provided on the Absentee Bid Form. Nevertheless, under no circumstance shall the Company be liable for any unsuccessful attempt to make contact or for any errors or omissions in the bids made using the instant communication instrument in question.

#### **Article 16 Disclaimer of Liability for Absentee Bid**

Given that absentee bidding is a free service provided by the Company to the Bidder for the purpose of transmitting bidding information, neither the Company nor its employees shall be liable for unsuccessful bids or any errors, omissions, negligence, fault or inability to bid on the Bidder's behalf arising in the course of the bidding on the Bidder's behalf.

#### **Article 17 Principle of Prior Appointment**

If two or more Bidders who have appointed the Company to bid on their behalfs make identical bids for the same Auction Property and the Auction Property is ultimately sold at such price, the Bidder who served the Absentee Bid Form on the Company first shall be the Buyer of the Auction Property in question.

#### **Article 18 Discretion of the Auctioneer**

The Auctioneer shall have the absolute right of discretion in respect of the following matters:

1. to refuse or accept any bid;
2. to conduct the auction in the manner he or she decides;
3. to withdraw any Auction Property, divide it into separate lots for auction or combine any two or more Auction Properties and auction them together;
4. where an error or dispute occurs, whether during or after the auction, to decide the successful Bidder, whether or not to continue the auction, to cancel the

auction or to auction the disputed Auction Property anew;

5. to open and conduct the bidding at the level and at bid increments that he or she deems appropriate, and to bid on behalf of the Seller up to the amount of the Reserve, by making a bid, by making consecutive bids or by making bids in response to the bids of other Bidders;
6. to take other actions that he or she reasonably deems appropriate.

#### **Article 19 No Reserve**

For those Auction Properties without a Reserve, unless there are bids, the Auctioneer shall have the right, at his or her own discretion, to decide the starting price. If there are no bids at such price, the Auctioneer will, at his or her own discretion, lower the price and continue the auction until a Bidder starts to bid, whereupon he will increase the price from there and continue the auction.

#### **Article 20 Image Display Panel and Currency Conversion Display Panel**

For the convenience of Bidders, the Company may use image projection or other manner of display panel during the auction. The information shown thereon shall be provided for reference only. Regardless of whether there may be errors in the information, such as the amount, reference number of an Auction Property, the picture of an Auction Property or reference foreign exchange amount, etc., shown on the image projection or other manner of display panel, the Company shall not be liable for any losses arising as a result thereof.

#### **Article 21 Successful Sale**

Upon the confirmation of the highest bid by the striking of the hammer or otherwise by the Auctioneer, such Bidder's bid shall be the successful bid, indicating that he or she has become the Buyer of the Auction Property, and that a binding sales contract has been concluded between the Seller and the Buyer.

#### **Article 22 Commission and Charges**

Once the Bidder has made a successful bid, he or she becomes the Buyer of the Auction Property. The Buyer shall pay to the Company a commission to be calculated as follows: For each Auction Property, those part of Hammer Price which is HKD5 million or below, the commission shall be equivalent to 18% of the Hammer Price; for each Auction Property whose Hammer Price exceeds HKD5 million, the commission applicable to those part of the Hammer Price between HKD5 million to HKD20 million shall be equivalent to 15% thereof and the commission applicable to those part of the Hammer Price above HKD20 million shall be equivalent to 12% thereof. The Buyer shall also pay to the Company other Buyer Charges, and accepts that the Company may charge the Seller a commission and other Seller charges in accordance with the Conditions of Business for Sellers.

#### **Article 23 Taxes**

All the monies paid to the Company by the Buyer shall be the net amount, exclusive of any tax on goods, tax on services or other value added tax (whether levied by Hong Kong or another region). If any taxes or levies are applicable to the Buyer, he or she shall solely bear the same in accordance with the relevant laws currently in force.

#### **Article 24 Payment Deadline**

Unless otherwise agreed in writing, after a sale, the Buyer shall pay the Purchase Price in full to the Company and collect the Auction Property within seven days from the Sale Date, regardless of any export, import or other permit regulations for the Auction Property. All packing and handling charges, freight and insurance charges, export related charges, etc. involved, if any, shall be paid by the Buyer together with the foregoing.

#### **Article 25 Payment Currency**

All monies shall be paid in Hong Kong dollars. If the Buyer pays in a currency other than the Hong Kong dollar, the same shall be converted at the exchange rate agreed between the Buyer and the Company or at the exchange rate for the Hong Kong dollar and the currency in question posted by The Hongkong & Shanghai Banking Corporation Ltd. one working day prior to the date of payment by the Buyer. All bank service charges, commissions and other charges incurred by the Company in converting the foreign currency paid by the Buyer into Hong Kong dollars shall be borne by the Buyer.



#### **Article 26 Transfer of Ownership**

Even if the Auction Property has not been delivered to the Buyer by the Company, the Buyer shall have secured ownership of the Auction Property but before he or she has paid in full the Purchase Price and all amounts that he or she may owe the Company, its divisions, affiliates, subsidiaries or parent company, or China Guardian, its divisions, affiliates, subsidiaries or parent company, the Company and/or the Seller reserve the right of possession /lien or any other lawful relieves.

#### **Article 27 Transfer of Risks**

Once a successful bid has been made, the risks attaching to the Auction Property shall be solely borne by the Buyer once any of the following circumstances (whichever is earlier) arises:

1. the Buyer collects the Auction Property; or
2. the Buyer pays all of the Purchase Price for the Auction Property to the Company; or
3. the lapse of seven days after the Sale Date.

#### **Article 28 Collection of the Auction Property**

The Buyer must, within seven days from the Sale Date, proceed to the Company's address or other location designated by the Company to collect the Auction Property he or she purchased. The Buyer shall be solely responsible for purchasing insurance for the Auction Property he or she purchased once the risks pass to him or her. If the Buyer fails to collect the Auction Property within seven days from the Sale Date, he or she shall bear all of the relevant costs for storing, handling, insuring, etc. the Auction Property in question, and he or she shall bear all of the liability for the Auction Property he or she purchased. Furthermore, notwithstanding the Auction Property remaining in the custody of the Company or another agent, none of the Company, its employees or agents shall be liable for damage to or loss of the Auction Property, regardless of the reason the same arises.

#### **Article 29 Packing and Shipping**

The packing and processing by the employees of the Company of the purchased Auction Property as required by the Buyer shall solely be deemed as a service provided by the Company to the Buyer, and the Company may decide at its own discretion whether to provide such service. If any losses arise therefrom, they shall solely be borne by the Buyer. Under no circumstance shall the Company be liable for damage to glass or frame, box, backing sheet, stand, mounting, inserts, rolling rod or other similar auxiliary object arising for any reason. Furthermore, the Company shall not be liable for any errors, omissions, damage or loss caused by the packing company or removal company recommended by the Company to the Buyer.

#### **Article 30 Import/Export and Permits**

The Buyer shall himself or herself be responsible for securing any relevant import and export, endangered species or other permit for the Auction Property. A failure or delay in obtaining any required permit shall not be deemed as grounds for cancelling the purchase or delaying payment of the Purchase Price by the Buyer. The Company shall not bear any liability for the failure to duly complete or submit the required import or export waybill, list or documents.

If the Buyer requests that the Company apply for an export permit on his or her behalf, the Company shall have the right to charge him or her a separate service fee for such service. However, the Company does not warrant that such export permit will be issued. Neither the Company nor the Seller gives any representations or warranties as to whether or not any Auction Property is subject to import/export restrictions or any embargo.

#### **Article 31 Remedies for Non-Payment and Specific Performance**

If the Buyer fails to make payment in full pursuant to these Conditions or any payment arrangement agreed with the Company, the Company shall have the right to take one or more of the following measures:

1. If the Buyer fails to pay all of the Purchase Price in full to the Company within 7 days from the Sale Date, the Company shall have the right to engage a third party organization to collect all or part of the outstanding Purchase Price from the Buyer;
2. If the Buyer fails to pay the Purchase Price in full within 7 days from the Sale Date, the Company shall have the right to charge interest at the rate 0.03% per day on

the Buyer's outstanding amount starting from the 8th day after the Sale Date until the date on which the Buyer pays the entire amount in full, unless the Buyer and the Company agree otherwise;

3. All risks and charges relating to insurance coverage taken out on the Auction Property, removal thereof, or storage thereof, at or from the Company or elsewhere shall be borne by the Buyer;
4. To institute a legal action against the Buyer, demanding that he or she compensate it for all the losses incurred as a result of his or her breach of contract, including the interest losses arising due to delay in payment or refusal to pay by the Buyer;
5. To exercise a lien on the Auction Property in question and any other Auction Property of the Buyer purchased under the auspices of the Company, and any other property or property rights of the Buyer that may be in the Company's possession for any reason, and all expenses and/or risks arising during the duration of the lien shall be borne by the Buyer. If the Buyer fails to perform all of his or her relevant obligations by the deadline designated by the Company, the Company shall have the right to dispose of the subject matter of the lien after issuing notice to the Buyer that it is exercising its lien rights and if the Buyer fails to discharge all outstanding amounts within 30 days after issuance of such notice. If the proceeds from the disposal of the subject matter of the lien are insufficient to offset all the monies payable by the Buyer to the Company, the Company shall have the right to separately recover the same;
6. If the Buyer still has not paid all of the Purchase Price in full to the Company within 90 days from the Sale Date, the Company shall have the right (but shall not be obliged) to decide, at its absolute discretion, to cancel the transaction or agree to cancellation of the transaction by the Seller, and reserves the right to recover all of the losses suffered by the Company due to cancellation of the transaction;
7. To offset any amount related to the Auction Property owed by the Buyer to the Company against any amount owed from any other transaction by the Company, its divisions, affiliates, subsidiaries or parent, or China Guardian, its divisions, affiliates, subsidiaries or parent to the Buyer;
8. To decide at its discretion to use any monies paid by the Buyer to discharge the amount owed by the Buyer to the Company, its divisions, affiliates, subsidiaries or parent, or China Guardian, its divisions, affiliates, subsidiaries or parent in connection with the Auction Property or other transaction;
9. To refuse any future bids made by the Buyer or his or her agent, or to charge him or her a bid deposit before accepting his or her bids;

The Company is aware that the Auction Property is unique and irreplaceable, if either the Seller or the Buyer defaults, the payment of damages by one party to another shall not be a sufficient remedy to the observant party. Accordingly, the Company, the Buyer and the Seller agree that any such breach, the observant party may apply to the court to order specific performance, requiring the defaulting party to perform his/her obligations under these Conditions or their ancillary documents.

#### **Article 32 Remedies for Delay in Collecting the Auction Property**

If the Buyer fails to collect the purchased Auction Property within seven days from the Sale Date, the Company shall have the right to take one or more of the following measures:

1. To take out insurance coverage for the Auction Property and/or store the same on Company premises or elsewhere, with all of the costs (including but not limited to charging the Storage Fee specified on the Bidder Registration Form from the 31st day following the Sale Date) and/or risks arising therefrom borne by the Buyer. In such a case, the Buyer may collect the Auction Property (packing and handling charges, freight and insurance charges, export related charges at the sole expense of the Buyer) only after he or she has paid all of the Purchase Price in full;
2. If the Buyer fails to collect the relevant Auction Property by the deadline prescribed herein, he or she shall solely be liable for all the risks and expenses arising after the expiration of such deadline.

#### **Article 33 Limited Warranties**

1. The general warranties provided to the Buyer by the Company are as set forth below:  
If it is discovered after an Auction Property is sold by the Company that the same is a forgery, the Company will, in accordance herewith, cancel the transaction and refund to the Buyer in the original currency the Hammer price together with the

Buyer's Commission paid by the Buyer to the Company in respect of the Auction Property.

For the purposes of the foregoing, a forgery, based on the reasonable opinion of the Company, means such things as a forged work or intentional concealment or a fraudulent claim in respect of the source, place of origin, date, production year, age, culture or origin, etc. of a work, and a correct description of the foregoing is not included in the catalogue (considering any terms of art). Any damage to an Auction Property and/or any manner of restored piece and/or any repaired piece (including repainting or overpainting) shall not be deemed a forgery.

Please note that the foregoing warranty shall not apply if:

- (1) The information in the catalogue is based on the generally accepted opinions of academics and experts on the selling date, or said information in the catalogue indicates that there exist conflicts in such opinions; or
  - (2) On the selling date, the only means of proving that the Auction Property in question is a forgery is not generally available or recognized at such time, is extremely expensive or is impractical; or may already have caused damage to the Auction Property or may (in the reasonable opinion of the Company) already have caused the Auction Property to lose value; or
  - (3) If, based on its description, the Auction Property has not lost any material value.
2. The period specified by this warranty simply provides the Buyer an exclusive non-transferrable benefit for 5 years after the relevant Auction Date. To lodge a claim based on this warranty, the Buyer must:
- (1) notify the Company in writing within three months after the receipt of any information which leads the Buyer to doubt the authenticity or attributes of the Auction Property, specifying the reference number of the Auction Property, the date on which the Auction Property was purchased and the reasons for believing that the Auction Property is a forgery;
  - (2) return the Auction Property to the Company in a condition identical to that on the date on which it was sold to the Buyer, and provided that good title thereto is transferrable and no third party claims have been made in respect thereof since the selling date.
3. With respect to contemporary and modern art, Chinese oil paintings and Chinese paintings and calligraphy, although academic circles do not permit the making of definitive statements in respect thereof at present, the Company reserves the discretion, pursuant to this warranty, to cancel transactions of contemporary and modern art, Chinese oil paintings and Chinese paintings and calligraphy that are confirmed to be forgeries, but only within one year after the Auction Date. The amount paid shall be refunded to the Buyer pursuant to this Article, provided that the Buyer provides to the Company evidence (by the methods set forth in clauses 2 and 4 of this Article) confirming that the Auction Property is a forgery within one year from the Auction Date;
4. The Company may, at its discretion, decide to waive any of the foregoing provisions. The Company shall have the right to request that the Buyer obtain, at his or her expense, reports from two experts acceptable to the Company and the Buyer who are independent and recognized in the industry. The Company shall not be subject to any report presented by the Buyer, and reserves the right to seek the opinion of additional experts at its own expense.

#### **Article 34 Obtaining Information, Video Taking**

With respect to the operation of the Company's auction business, the Company may make audio recordings, video recordings or keep a record of any auction process, and may need to collect personal information from the Bidder or request information about the Bidder from third parties (such as requesting a credit review from a bank). Such information will be processed and kept confidential by the Company. However, relevant information may be provided to the Company, its divisions, affiliates, subsidiaries or parent, or China Guardian, its divisions, affiliates, subsidiaries or parent in order to assist the Company in providing excellent services to Bidders, carrying out client analyses, or providing services that satisfy the requirements of Bidders. For the benefit of the Bidder, the Company may also be required to provide certain personal information of the Bidder to third party service providers (such as shipping companies or warehousing companies). By participating in the auction by the Company, the Bidder indicates that he or she consents to the foregoing. If the Bidder wishes to obtain or amend his or her personal information, he or she is asked to contact the customer service department.

#### **Article 35 Copyright**

The Seller authorizes the Company to produce photos, illustrations, a catalogue, or other form of video recording of, and publicity materials for, any Auction Property that he or she has consigned to the Company for auction, and the Company enjoys the copyrights therein, and has the right to use the same in accordance with the law. Without the prior written consent of the Company, neither the Buyer nor anyone else may use the same. Neither the Company nor the Seller gives any representations or warranties as to whether the Auction Property is subject to copyright or whether the Buyer secures any copyright in the Auction Property.

#### **Article 36 Notices**

The Bidder and the Buyer shall inform the Company of their fixed and valid correspondence address and contact information by the method specified in the bidding registration documents or other method approved by the Company. In the event of a change, the Company shall be promptly informed thereof in writing.

The notices mentioned herein only refer to written notices sent by post, by email or by fax. A notice shall be deemed as served at the following times:

1. If served by hand, at the time it reaches the address of the relevant Party;
2. If by post, the seventh day after it is posted;
3. If by fax, when transmission is confirmed by the sending fax machine;
4. If by email, when delivery is confirmed by the email record.

#### **Article 37 Severability**

If any provision or part hereof is found invalid, unlawful or unenforceable for any reason, the other provisions and parts hereof shall remain valid, and the relevant parties shall abide by and perform the same.

#### **Article 38 Laws and Jurisdiction**

These Conditions and related matters, transactions and any disputes arising from, or in connection with, participation in the auction conducted by the Company pursuant hereto shall be governed by, and construed in accordance with, the laws of Hong Kong. All of the Company, the Buyer and the Bidder shall submit to the exclusive jurisdiction of Hong Kong courts.

#### **Article 39 Language**

The Chinese language version hereof shall be the governing version and the English language version shall be for reference only.

In the event of a discrepancy between the English language version and the Chinese language version, the Chinese language version shall prevail.

#### **Article 40 Ownership of Copyright in the Conditions**

These Conditions are formulated and shall be revised by the Company, and the relevant copyrights shall vest in the Company. Without the prior written permission of the Company, no one may use these Conditions in any manner or way to obtain commercial benefits, and may not take copies of, communicate or store in any searchable system any part hereof.

#### **Article 41 Term of Applicability**

These Conditions shall apply solely to the upcoming auction. The Company may update these Conditions from time to time. When the Bidder and the Buyer participate in another auction, then applicable Conditions of Business for Buyers shall prevail.

#### **Article 42 Right of Interpretation**

During routine performance hereof, the right to interpret these Conditions shall be exercised by the Company. In the event of a legal dispute between the Buyer and the Company, the right of interpreting these Conditions, when resolving the dispute, shall be exercised by the competent court.

**Date of this version: 8<sup>th</sup> March 2018**

**Address of the Company: Room 3001, Cosco Tower, 183 Queen's Road Central, Hong Kong**