

# MDJ x Phillips – CONDITIONS OF SALE FOR ONLINE-ONLY AUCTION AND AUTHORSHIP WARRANTY

Effective as of April 12, 2021

Please read these Conditions of Sale and Authorship Warranty carefully before participating in the MDJ x Phillips online-only auction. They contain the terms on which Phillips Auctioneers LLC, Auction License 2013224, (“Phillips”, “we”, “our” or “us”) and the sellers of the Lot in the MDJ x Phillips online-only auction (“Seller”) contract with you, registered bidders and buyers of lots in the online-only auction (as the context requires “you,” “your,” “bidders,” “buyers”).

## 1 CONDITIONS OF SALE

By bidding at the MDJ x Phillips online-only auction, you agree to be bound by these Conditions of Sale for the MDJ x Phillips Online-Only Auctions and Authorship Warranty as modified by any additional notices or terms published in the online saleroom.

## 2 PHILLIPS AS AGENT AND CONTRACT OF SALE

Phillips acts as an agent for the Seller of the lot in this online-only auction. The contract of sale will be between the Seller and the successful buyer.

## 3 DESCRIPTIONS AND CONDITION

### Descriptions

The lot being offered in this sale is not an artwork. It is a Non-Fungible Token (NFT), which is a unit of data on the blockchain representing a digital file in existence at the moment of the sale. The NFT has been created by the Seller and Phillips is unable to verify or make any representation as to the nature, operation, character or contents of the NFT. The NFT is sold “as-is”. Hereafter the lot may be described as a “Lot” or as the “NFT”. If you are the successful bidder in this sale you will, subject to the terms of these Conditions of Sale acquire title to the NFT.

The digital file to which the NFT relates (“the Artwork”) is not the subject of this sale and has also been created by the Seller. Phillips makes no representation and provides no warranty whatsoever in relation to the nature, description, uniqueness, functionality, operation, use, fitness, utility or compatibility with digital platforms and/or software for purpose of the digital file, either now or in the future.

For the avoidance of doubt, Phillips is not selling any ownership rights to the Artwork, or the copyright to the Artwork, related to the NFT. Phillips is only selling the ownership rights to the NFT.

Prospective buyers acknowledge these limitations of Phillips’ descriptions and accept responsibility for carrying out inspections and investigations to satisfy themselves as to the NFT being offered for sale in this auction. Notwithstanding the foregoing, we will exercise reasonable care when making express statements in online descriptions as is consistent with our role as auctioneer of the NFT on the online-only auction and in light of: (i) information provided to us by the Seller; (ii) scholarship and technical knowledge available to us; and (iii) the generally accepted opinions of relevant experts, in each case at the time any such express statement is made.

Online descriptions of the NFT may include an Etherscan link to the blockchain, a description of NFT, its functionality, the history of ownership of the NFT (also referred to as “provenance”), as well as any exhibition history and references to the NFT or the digital file to which the NFT relates (“the Artwork”) in art publications. While we are careful in the cataloguing process, provenance, exhibition and literature references may not be exhaustive. The above information regarding provenance and history of the NFT may also be available and visible in the blockchain ledger of transactions relating to the NFT, and Phillips has no control over and accepts no responsibility for the transactions recorded or displayed in the blockchain in relation to the NFT.

Photographs, Videos and illustrations are for identification purposes only and cannot be used as precise indications of size or convey full information as to the condition of the NFT or the Artwork. We make every effort to describe the NFT and Artwork in the online-only auction as accurately as possible. Where colors are displayed, the colors you see will, however, depend on the resolution of your monitor or of your mobile device. We cannot guarantee that your monitor’s or your mobile device’s display of any color will reflect accurately the color of the items described.

Information provided in respect to online descriptions of the NFT or the Artwork and any condition report (where available), or link to the blockchain whether written or oral, is not a representation of fact but rather a statement of opinion held by Phillips.

### Condition

You agree that the NFT is sold “as is” and in the condition that it is in at the time of the online-only auction, subject to your cancellation right set forth in paragraph 10 below.

Online descriptions of the NFT or the Artwork or links to the blockchain may include references to condition and intended functionality. Such references, though, do not amount to a full description of condition and functionality. The absence of reference to the condition and functionality of the NFT or the Artwork in their online descriptions does not imply that the NFT or the Artwork is free from faults or imperfections, and you acknowledge and agree to take all necessary care in inspecting the NFT or the Artwork and information available on the blockchain to satisfy yourself with their condition, the accuracy of their description, and their characteristics prior to bidding.

Phillips will provide an Etherscan link to the Ethereum blockchain based contract governing the programming and terms of the NFT (“Smart Contract”) for the NFT in the online-only auction to prospective buyers, and you hereby acknowledge and agree that you are solely responsible for reviewing and inspecting the Smart Contract prior to purchase, and that by bidding in the online-only auction you are agreeing to the terms and conditions set forth in the Smart Contract by the seller, and you acknowledge and agree that our staff are not Information Technology or data experts, and that by bidding in the online-only auction of the NFT, you accept that NFTs and Smart Contracts are subject to inherent technological risks which may affect their performance now or in the future, and Phillips makes no representations or warranties in relation to the condition, performance, security, quality, representations and warranties, or terms of the NFT, the Artwork, or its Smart Contract.

Phillips accepts bids on lots on the basis that bidders (and independent experts on their behalf, to the extent appropriate given the nature and value of the lot and the bidder’s own expertise) have fully satisfied themselves as to both the condition of the lot and the accuracy of its description prior to bidding.

### Viewing

NFTs, due their nature as a unit of data, are not available for physical inspection. However, the Smart Contract will be available for review by all prospective bidders via an Etherscan link.

### Estimates

The NFT will be offered for sale without estimates.

### Symbols Used In Lot Descriptions

You may see the following symbols referenced in the online lot descriptions

#### • No Reserve

The Lot in the MDJ x Phillips online-only auction is offered without a reserve.

## 4 PARTICIPATING IN THE ONLINE-ONLY SALE

### Connectivity

You can participate in the MDJ x Phillips online-only auction using either:

(a) Phillips’ online buying platform available on our website at [www.phillips.com](http://www.phillips.com); or

(b) the Phillips App available to download from the iTunes® App Store

Our online-only auctions are optimized to run on Google Chrome, Firefox, Safari, Opera and Internet Explorer browsers.

While we do everything within our control to ensure your participation in the online-only auction runs smoothly, technical problems beyond our reasonable control sometimes occur. These include, for example, broadband and other internet capacity constraints, corporate firewalls, errors in the quality or display of digital images, errors in software and other technical problems. Phillips does not accept liability for any such difficulties or errors.

### Registration and Approval

You may register for and participate in the MDJ x Phillips online-only auction as soon as the auction goes live through the time that the MDJ x Phillips Online-Only auction closes. Unless otherwise approved in advance and in writing by Phillips, you must be at least 18 years old to participate in our online-only auction.

The first time you register you will need to create an account with Phillips. When you register for subsequent sales you will only need to register for that sale. You will receive an email notification once your registration has been approved. You cannot place bids before your registration has been approved. Phillips has absolute discretion to refuse admission to or participation in the online-only auction.

In order to bid on the NFT you must prior to bidding have a wallet capable of supporting and accepting a ERC721 token.

We will accept payment in Ether only if made via a digital wallet transfer of Ether to Phillips. Please note that payment will only be accepted in Ether if demonstrated to our satisfaction that the payment is being made from a wallet registered to you and maintained with one of the following platforms:

- Coinbase Custody Trust;
- Coinbase, Inc.;
- Fidelity Digital Assets Services, LLC;
- Gemini Trust Company, LLC; or
- Paxos Trust Company, LLC.

Payments from digital wallets hosted at other exchanges or self-hosted wallets will not be recognised or accepted and in such circumstances payment will be required in US dollars.

If you are the successful bidder you agree to provide us with all information and documentation we request in order to verify your identity and to confirm that the Ether payment was made from a digital wallet registered in your name and maintained at by one of the platforms above. Partial payments of a lot from multiple digital wallets will not be accepted.

If you choose to make payment of the Purchase Price in Ether, you represent and warrant that your bids at the online-only auction will not exceed the amount of Ether you own, and are responsible for evaluating the Ether equivalent of your bidding in US dollars at the time of your bid, and that you are hereby solely responsible and liable to obtain and pay any and all amount of Ether you bid at the online-only auction.

#### Creating an Online Bidding Account

If you do not have an existing Phillips online bidding account, you can create one by providing the information requested on our registration page. In order to register, you are required to supply the information requested on the registration page, including a valid credit card and other information and verification information required by Phillips, including:

#### For private individuals

- (a) full name, nationality and date of birth;
- (b) a copy of a government issued photo ID (e.g. passport, national ID card); and
- (c) proof of permanent residential address dated within the last 3 months (e.g. bank or credit card statement, utility bill, tax authority letter) unless this already appears on the photo ID
- (d) a valid credit card in your name.

#### For companies

- (a) company name, place of incorporation/registration; registered number and nature of business;
- (b) registered address (and business address if different)
- (c) directors, shareholders and authorized signatories (if different than the directors)
- (d) certificate of incorporation or equivalent document or extract from relevant company registry or most recent tax return or audited accounts; and other information we may request to verify the directors and shareholders.

Phillips will only accept bids from physical persons or corporate entities. Unless we agree otherwise in writing any bid placed by a physical person or corporate entity shall be considered a bid placed on behalf of that person or corporate entity only and as principal. The registered person or corporate entity will be fully responsible for any such payment due because of that bid and payment must be made by that person or corporate entity. If the purchase price is paid in Ether the payment must be made from a wallet registered to the successful bidder and maintained by one of the platforms listed above.

#### Existing Online bidding account holders

If you have an existing online bidding account with Phillips, you will may be asked to confirm your account details when you register for the online-only sale and may be asked to provide updated identification, credit and payment information.

You can view and edit your information by clicking on 'My Account' online or on the Phillips App.

#### 5 BIDDING IN THE ONLINE-ONLY SALE

#### Existing Online bidding account holders

Once you have registered and are approved for bidding in the online-only auction, you can place the next incremental bid during the online-only auction by clicking on the 'Bid' button, or you can place a maximum bid by selecting an amount from the 'Place Max Bid' dropdown menu.

Once submitted, all bids are final and cannot be amended, reduced, retracted or revoked. Phillips is not responsible for any errors you make in bidding.

You must place your bid in the increments provided for the NFT as described below. You cannot advance a bid outside of the increments provided below.

By submitting a bid, you accept personal liability to pay the total Purchase Price including all applicable charges and taxes.

By participating in the MDJ x Phillips online-only auction, you also represent and warrant that any bids you place, whether on your behalf or on behalf of others, are not the product of any collusive or other anti-competitive agreement and are not unlawful or otherwise inconsistent with federal and state antitrust law.

#### Outbid and Reserve Notifications

You will receive an email notification if you are outbid by another bidder. If that happens, you will have the option to place further bids on the NFT, provided that the online-only auction is still live.

#### Maximum bids

Instead of placing multiple, incremental bids, you can choose to place a "maximum bid" on the NFT in the MDJ x Phillips online-only auction.

Placing a maximum bid does not mean you will end up paying the full amount of your maximum bid. The system will recognize your maximum bid and will place consecutive, incremental bids on your behalf up to but not exceeding the amount of your "maximum bid" in response to other bids placed.

Maximum bids must be at a recognized bidding increment in order to be processed.

If your maximum bid has been outbid by other bidders, you will receive notification and will have the option to submit a new maximum bid.

You may increase your maximum bid at any time during the timed online-only auction. Once submitted, you cannot lower a maximum bid.

#### Bidding

Bidding will be in US Dollars. Bidding generally opens below the low estimate and advances in increments of up to ten percent (10%), subject to Phillips' discretion, as follows:

\$50 to \$1,000	by \$50s
\$1,000 to \$2,000	by \$100s
\$2,000 to \$3,000	by \$200s
\$3,000 to \$5,000	by \$200s, \$500s, \$800s
\$5,000 to \$10,000	by \$500s
\$10,000 to \$20,000	by \$1,000s
\$20,000 to \$30,000	by \$2,000s
\$30,000 to \$50,000	by \$2,000s, 5,000, 8,000
\$50,000 to \$100,000	by \$5,000s
\$100,000 to \$200,000	by \$10,000s
above \$200,000	at the auctioneer's discretion

By placing a bid in the online-only auction, you accept personal liability to pay the Purchase Price, as described more fully in Paragraph 7 below, plus all other applicable charges unless it has been explicitly agreed in writing with Phillips before the commencement of the MDJ x Phillips online-only auction that you are acting as agent on behalf of an identified third party physical person or corporate entity acceptable to Phillips and that we are able to verify the identity of such person or corporate entity and that we have agreed that we will look to the principal for such payment.

#### Winning bids

At the close of the timed MDJ x Phillips online-only auction, the highest bid accepted on the NFT will be the successful bid and that bidder will become the buyer of the NFT, unless special circumstances require Phillips to exercise its discretion. A contract for sale of the NFT is formed between the Seller of the NFT and the highest bidder on the NFT at the time the online-only auction closes, and the buyer will enter into the Smart Contract with the seller at the time of the winning bid. You are solely responsible for reviewing the terms of the Smart Contract prior to your purchase.

Winning bidders will be notified and contacted by email after the online-only auction has closed.

#### Staff bidding

Employees of Phillips and of our affiliated companies may participate in real time in the online-only auction. We have strict staff bidding policies in place to ensure our staff will have no advantage over other bidders.

## 6 CONDUCT OF THE ONLINE-ONLY SALE

#### Reserves

Phillips may, at our discretion, and provided notice is given to bidders, choose to apply a reserve for the NFT.

#### Actions Phillips Can Take

Phillips may take such actions as it reasonably considers appropriate to ensure the online-only auction runs smoothly in accordance with legal obligations. Such actions may include but are not limited to:

- (a) refusing to accept any bid on the NFT where Phillips reasonably considers it appropriate to do so;
- (b) restarting the bidding on the NFT where Phillips reasonably considers it appropriate to do so;
- (c) withdrawing the NFT from the MDJ x Phillips online-only auction;
- (d) reopening or continuing the bidding even after the hammer has fallen; and
- (e) in the case of an error or dispute and whether during or after the MDJ x Phillips online-only auction, Phillips may continue the bidding, determine the successful bidder, cancel the sale of the NFT, or reoffer and resell the NFT. If you believe that Phillips has accepted the successful bid in error, you must provide a written notice detailing your claim within 3 business days of the date of the online-only auction of the NFT. Phillips will consider such claim in good faith. In the exercise of our discretion under this paragraph, Phillips decides after the online-only auction is complete, to cancel the sale of the NFT, or reoffer or sell the NFT, we will notify the successful bidder no later than the 7th calendar day following the sale of the NFT. Phillips' decision in the exercise of this discretion is final. This paragraph does not in any way prejudice Phillips' ability to cancel the sale of the NFT under any provision of these Conditions of Sale, including any other rights of cancellation set forth herein or under applicable law.

Phillips has no liability to bidders or buyers for any such actions which it may take during the online-only auction. If any dispute arises after the MDJ x Phillips online-only auction, our sale record is conclusive. Phillips may accept bids made by a company affiliated with Phillips provided that the bidder does not know the reserve placed on the NFT.

#### Currency

The online-only auction will be conducted and invoiced in US dollars (USD), and all payments are due in either USD or in Ether. Each bidder will be responsible for conducting their own U.S. Dollar to Ether cryptocurrency conversion throughout the online-only auction and at the time of each of their bids, and you acknowledge and agree that Cryptocurrency rates fluctuate regularly and the conversion rate may change during the course of the online-only auction and you are responsible for the payment of a winning bid at the rate of exchange at the time of the winning bid of the online-only auction, and not at a previous rate of exchange.

If you choose to make a payment for the NFT using Ether, you must pay an amount of Ether that is of equivalent value to the U.S. Dollar Purchase Price of the NFT, with the conversion rate for U.S. Dollars into its Ether equivalent to be fixed at the time of the winning bid, and to be set by Coinbase.

For the benefit of international clients, bidding in the MDJ x Phillips online-only auction may also be shown in other major traded currencies and, if so, will reflect approximate exchange rates. Any currency conversions displayed should be treated only as a guide. Phillips cannot be bound by any rate of exchange shown by the currency calculator and is not responsible for any error, omission or failure in providing these services.

You acknowledge and agree that the price of Ether, as with other cryptocurrencies, can be volatile and subject to upward and downward movements. The Ether price to be paid by the buyer shall be fixed at the Ether Price at the date and time of the winning bid at the online-only auction, and buyer's payment of the Purchase Price, and all other associated fees, must be transferred by the buyer from buyer's digital wallet to Phillips' digital wallet within 24 hours of your receipt of Phillips' invoice for the purchase of the NFT, which invoice will include a QR code along with an address to Phillips' digital wallet, to transfer the Purchase Price and all other associated fees to Phillips' digital wallet.

Where buyer chooses to pay the Purchase Price and all other associated fees in USD, buyer shall pay the Purchase Price within 24 hours of the time of the winning bid at the online-only auction.

Should you exercise a cancellation right pursuant to Paragraph 10 below or should Phillips cancel the sale of the NFT pursuant to Paragraph 11 below, you understand and agree that any such right to a refund of the Purchase Price will be subject to Ether price fluctuations and may result in the refund due to you in Ether differing from the amount of Ether paid by you upon purchase to meet the Purchase Price, depending upon the Ether price valuation at the date of online-only auction and the respective Ether price as at the date of the refund to you. The amount of any refund due to you will be the amount of USD set as the Purchase Price at the online-only auction, and the amount of Ether due to you if your payment was made in Ether, will be the amount of Ether equal to the USD Purchase Price, at the time of the refund, but in no circumstance will you be entitled to receive any appreciation on the value of the Ether that you provided to us as payment in connection with a refund.

Once you initiate an Ether transaction, the transaction cannot be reversed; this is inherent in the nature of the Ether network and not a policy set by us. You are responsible for verifying that you have input the correct Ether address into the recipient field and the correct Ether amount into the amount field in your digital wallet software.

#### If the NFT is not sold

If the NFT is not sold during the online-only auction, then the NFT will be deemed to have been "passed," "withdrawn," "returned to owner" or "bought-in."

Any post-online-only auction sale of the NFT will incorporate these Conditions of Sale for Online-Only Auctions and Authorship Warranty as if sold in the MDJ x Phillips online-only auction unless the buyer and Phillips agree otherwise in writing.

## 7 PURCHASE AND PAYMENT

#### Calculating the Total Purchase Price

If you are the successful bidder and buyer of the NFT, you agree to pay us the Hammer Price of the lot, the Buyer's Premium and any applicable sales tax (the "Purchase Price").

The Hammer Price is the final, highest bid accepted for the NFT when the Phillips closes bidding during the MDJ x Phillips online-only auction.

The Buyer's Premium is the commission Phillips charges the successful highest bidder and buyer of the NFT and is calculated on the Hammer Price of the NFT as follows: Twenty-six percent (26%) of the portion of the Hammer Price up to and including \$600,000; and Twenty-one percent (21%) of the portion of the Hammer Price above \$600,000 up to and including \$6,000,000 and 14.5% of the portion of the Hammer Price above \$6,000,000.

## Sales Tax

Sales tax, use tax and excise and other taxes, including any taxes applicable to the sale or purchase of NFTs and/ or the use of cryptocurrencies, are payable in accordance with applicable law, and you further acknowledge and agree that it is your responsibility to pay any sales taxes that are due on the purchase of the NFT whether arising but not collected at the time of sale or applicable through retroactive and applicable legislation. All prices, fees, charges and expenses set out in these Conditions of Sale for Online-Only Auctions are quoted exclusive of applicable taxes. Phillips will only accept valid resale certificates from US dealers as proof of exemption from sales tax. All foreign buyers should contact the Client Accounting Department about tax matters.

## Resale Royalties

The NFT and any further versions of the Artwork generated by the NFT ("Children") are subject to resale royalties on any subsequent resales of the NFT. On any subsequent resale of the NFT or Children, the successful bidder and buyer of the NFT at the online auction may be obligated on Seller's behalf to collect and remit to Seller resale royalties as applicable equal to 10% of the sale price of the NFT, the Artwork or the Children sold. Other resale royalties and transaction duties imposed by law may also apply in relation to such resales.

## Payment

You are required to pay for the purchased NFT immediately following the close of the online-only auction. Payments must be made to Phillips by the invoiced party in US dollars, or the correct equivalent amount in Ether cryptocurrency at the time specified above, either by cash, check drawn on a US bank, wire transfer, or transfer of Ether to a specified digital wallet as follows:

- (a) Phillips will accept payment in cash provided that the total amount paid in cash or cash equivalents does not exceed USD \$2,000. Buyers paying in cash should do so in person at our Client Accounting Desk at 432 Park Avenue during regular week day business hours.
- (b) Personal checks and banker's drafts are accepted if drawn on a US bank and the buyer provides to us acceptable government-issued identification. Checks and banker's drafts should be made payable to "Phillips." If payment is sent by mail, please send the check or banker's draft to the attention of the Client Accounting Department at 432 Park Avenue, New York, NY 10022 and make sure that the sale and lot number is written on the check. Checks or banker's drafts drawn by third parties will not be accepted.
- (c) Payment by wire transfer may be sent directly to Phillips. Bank transfer details:

Signature Bank  
485 Madison Avenue, New York, NY  
10022 SWIFT code: SIGNUS33  
ABA routing no.: 026013576  
For account of: Phillips Auctioneers  
LLC Account no.: 1502977462

Please reference the relevant sale and lot number.

- (d) As a courtesy to clients, Phillips will accept American Express, Visa and MasterCard to pay for invoices of \$75,000 or less.
- (e) Title in the purchased NFT will not pass until Phillips has received the Purchase Price for the NFT in full and cleared funds. Phillips is not obliged to release the NFT to you until title in the NFT has passed and appropriate identification has been provided, and any earlier release does not affect the passing of title or your unconditional obligation to pay the Purchase Price.
- (f) Where payment in Ether is chosen, we will accept payment for the Purchase Price and all amounts due under Paragraph 7 via a digital wallet transfer of Ether to Phillips. You are responsible for payment, in addition to the Purchase Price in full, of any and all transfer fees associated with your transfer of the Purchase Price from your digital wallet to Phillips' digital wallet. Payment must be sent from a digital wallet registered to you as an individual, or in the name of the company you have registered to bid as, and maintained with one of the following digital wallets: Coinbase Custody Trust; Coinbase, Inc.; Fidelity Digital Assets Services, LLC; Gemini Trust Company, LLC; or Paxos Trust Company, LLC, and you agree to provide documentation confirming all of the above upon our request.
- (g) Phillips will not accept partial payments for the NFT from multiple digital wallets.
- (h) To transfer title to you of the NFT, Phillips (or the Seller) will transfer the NFT to the digital wallet that you have specified, after you have met the conditions in paragraph 7 herein. You agree that we may require you to follow a security protocol to ensure that the NFT is safely received by you. You agree to utilize a digital wallet as set forth above, and for which you, or the company you have registered to bid as, have title and can support the NFT.

If the Seller is to transfer the NFT to you directly, you agree to allow Phillips to provide any and all necessary digital wallet information to the Seller in order to facilitate the transfer. You understand and agree that failure to comply with these conditions may result in a failure to access your NFT.

(i) You understand and acknowledge that not all digital wallets support storage of a non-fungible token, and that you must hold title to a digital wallet that supports storage of ERC-21 tokens and this NFT, and you must provide Phillips with the correct digital wallet information, in order for us to transfer the NFT to you. You further understand and acknowledge that where the buyer is to pay the Purchase Price in USD, buyer must still hold title to and provide to us the information to a digital wallet in the name of the buyer, for us to transfer the NFT to the buyer upon payment of the Purchase Price, and this digital wallet must comply with the above.

## 8 DELIVERY

Phillips will not release the NFT to you as the buyer until we have received payment of its Purchase Price in full and cleared funds, you have paid all outstanding amounts due to Phillips or any of our affiliated companies, including any charges payable pursuant to these Conditions of Sale for Online-Only Auctions, and you have satisfied such other terms as we in our sole discretion shall require, including completing any anti-money laundering or anti-terrorism financing checks.

Risk will transfer to you immediately upon Phillips transfer of title of the NFT to you by sending it to your digital wallet, and you are thereafter responsible for secure storage of the NFT in the wallet or other storage mechanism you use to receive and hold the NFT, and you further acknowledge that you are solely responsible for any risk associated with the NFTs such as transferring, creating, holding, storing, or using NFTs or a digital wallet, and Phillips will not be responsible for any such risks or losses.

## 9. REMEDIES FOR NON-PAYMENT

Without prejudice to any rights the Seller may have, if you fail to pay the Purchase Price for the NFT in cleared funds within 7 (seven) days of the date the close of the online-only auction, we may in our sole discretion exercise one or more of the following remedies:

- (a) store the NFT in Phillips' digital wallet or elsewhere at the buyer's sole risk and expense;
- (b) cancel the sale of the NFT, retaining any partial payment of the Purchase Price as liquidated damages;
- (c) reject future bids from the buyer or render such bids subject to payment of a deposit;
- (d) charge interest at 12% per annum from the date payment became due until the date the Purchase Price is received in cleared funds;
- (e) subject to notification to you, exercise a lien over any of your property which is in the possession of Phillips and instruct our affiliated companies to exercise a lien over any of your property which is in their possession and, in each case, no earlier than 30 days from the date of such notice arrange the sale of such property and apply the proceeds to the amount owed to Phillips or any of our affiliated companies after the deduction from sale proceeds of our standard vendor's commission, all sale-related expenses and any applicable taxes thereon;
- (f) resell the NFT by auction or private sale, with estimates and a reserve set at Phillips' reasonable discretion, it being understood that, in the event such resale is for less than the original hammer price and buyer's premium for the NFT, the buyer will remain liable for the shortfall together with all costs incurred in such resale;
- (g) commence legal proceedings to recover the hammer price and buyer's premium for the NFT, together with interest and the costs of such proceedings;
- (h) set off the outstanding amount remaining unpaid by the buyer against any amounts which we or any of our affiliated companies may owe the buyer in any other transactions;
- (i) release the name and address of the buyer to the Seller to enable the Seller to commence legal proceedings to recover the amounts due and legal costs; and/or
- (j) take such other action as we deem necessary or appropriate.

As security to us for full payment by you of all outstanding amounts due to Phillips and our affiliated companies, Phillips retains, and you grant to us, a security interest in the NFT purchased at auction by you and in any other of your property or money in, or coming into, our possession or the possession of one of our affiliated companies. We may apply such money or deal with such property as the Uniform Commercial Code or other applicable law permits a secured creditor to do. In the event that we exercise a lien over property in our possession because you are in default to us or one of our affiliated companies, we will so notify you. Our security interest in the NFT will terminate upon actual delivery of the NFT to you or your agent.

In the event you are in default of payment to any of our affiliated companies, you also irrevocably authorize Phillips to pledge your property in our possession by actual or constructive delivery to our affiliated company as security for the payment of any outstanding amount due. Phillips will notify you if your property has been delivered to an affiliated company by way of pledge.

#### 10. EU CONSUMER RIGHTS DIRECTIVE

##### Your Right to Cancel the Purchase of the NFT

If you are a consumer habitually residing in the European Union and the Seller of the NFT is not a consumer, you have the right under the EU Consumer Rights Directive to cancel your online purchase within 14 days of the date the NFT was sold to you.

If you qualify for the cancellation right and wish to exercise it, you must notify us in writing within 14 days of the date the NFT was sold to you ("Cancellation Period"). If, however, you accept the transfer of the NFT, you agree that you will no longer have the right to cancel the sale under the terms of this paragraph.

Your written notice should be sent within the Cancellation Period by post to the Client Accounting Team, Phillips Auctioneers LLC, 432 Park Avenue, New York, NY 10022. The notice should state your name, residential address, contact details, invoice number, Phillips account number, description of the property and the date of the sale and that you wish to exercise the EU Consumer Rights Directive cancellation right.

#### 11. PHILLIPS' RIGHT TO CANCEL THE SALE OF THE NFT

Phillips has the right, but not the obligation, to cancel the sale of the NFT if we reasonably believe:

- (a) there is a material breach of the Seller's representations and warranties; or
- (b) a valid claim is made by the buyer under the Authorship Warranty (described below); or
- (c) a third-party claim to ownership or title in the NFT is made; or
- (d) other just cause exists.

Upon notice of Phillips election to cancel the sale, the buyer will promptly return the NFT to Phillips' digital wallet, and we will then refund the Purchase Price paid by you pursuant to the terms set forth in Paragraph 6 above. The refund will constitute the sole remedy and recourse of the buyer against Phillips and the Seller with respect to such cancelled sale.

#### 12. PRIVACY

(a) You acknowledge and understand that we may process your personal data (including potentially special category data) in accordance with our privacy policy from time to time as published at [www.phillips.com](http://www.phillips.com) or available by emailing [dataprotection@phillips.com](mailto:dataprotection@phillips.com).

(b) Our privacy policy sets out: (i) the types of personal data we will or may collect and process; (ii) the purposes for which we will or may process your personal data (including for example the provision of auction, private sale and related services; the performance and enforcement of these terms and conditions; the carrying out of identity and credit checks; keeping you informed about upcoming auctions, exhibitions and special events; and generally where reasonably necessary in the management and operation of our business); (iii) the lawful bases on which we rely in undertaking our processing of your personal data; (iv) your rights in respect of our processing of your personal data; and (v) various other information as required by applicable laws.

(c) Your communications with Phillips, including online (e.g. on-line bidding) may also be recorded for security, client service and bid monitoring purposes. Where we record such information we will process it in accordance with our Privacy Policy available at [www.phillips.com](http://www.phillips.com).

#### 13. LIMITATION OF LIABILITY

(a) Subject to sub-paragraph (e) below, the maximum amount of any liability of Phillips, our affiliated companies and the Seller to the buyer in connection with the sale of the NFT shall be limited to the Purchase Price actually paid by the buyer for the NFT.

(b) Except as otherwise provided in this paragraph, none of Phillips, our affiliated companies or the Seller (i) is liable for any errors or omissions, whether orally or in writing, in information provided to prospective buyers by Phillips or any of our affiliated companies; or (ii) accepts responsibility to any bidder in respect of acts or omissions, whether negligent or otherwise, by Phillips or any of our affiliated companies in connection with the conduct of the auction or for any other matter relating to the sale of the NFT.

(c) All warranties other than the Authorship Warranty, express or implied, including any warranty of satisfactory quality and fitness for purpose, are specifically excluded by Phillips, our affiliated companies and the Seller to the fullest extent permitted by law.

(d) Subject to subparagraph (e) below, none of Phillips, our affiliated companies or the Seller shall be liable to the buyer for any loss or damage beyond the refund of the Purchase Price referred to in subparagraph (a) above, whether such loss or damage is characterized as direct, indirect, special, incidental or consequential, or for the payment of interest on the Purchase Price to the fullest extent permitted by law.

(e) No provision in these Conditions of Sale for Online-Only Auctions and Authorship Warranty will be deemed to exclude or limit the liability of Phillips or any of our affiliated companies to the buyer in respect of any fraud or fraudulent misrepresentation made by any of us or in respect of death or personal injury caused by our negligent acts or omissions.

#### 14. COPYRIGHT

The copyright in all images, videos, illustrations and written materials produced by or for Phillips relating to the NFT, including the contents of the online catalogue and sale particulars, is and shall remain at all times the property of Phillips and such images and materials may not be used by you or any other party without our prior written consent.

Copyright in the Artwork and Children shall remain with the Seller. Phillips and the Seller make no representations or warranties that the buyer of the NFT will acquire any copyright or other reproduction or derivative works rights, or rights to commercial use in the NFT or the Artwork or Children.

#### 15. GENERAL

(a) These Conditions of Sale for Online-Only Auctions and Authorship Warranty (as may be amended from time to time) set out the entire agreement between Phillips acting as agent for the Seller of the NFT and registered bidders and buyers of the NFT in the online-only auction and supersede all prior and contemporaneous written, oral or implied understandings, representations and agreements.

(b) Notices to Phillips must be in writing and addressed to the Client Accounts Department, Phillips Auctioneers LLC, 432 Park Avenue, New York, New York 10022, quoting the sale reference. Notices to clients will be in writing and addressed to the last address notified by those clients to Phillips.

(c) These Conditions of Sale for Online-Only Auctions and Authorship Warranty are binding on registered bidders and buyers and are not transferable by them to any other person, including their successors, assigns or representatives. Phillips may transfer its rights to other companies within the Phillips group from time to time.

(d) If any of these Conditions of Sale for Online-Only Auctions and Authorship Warranty is found to be void, invalid or unenforceable for any reason, the remaining provisions will remain in full force and effect. No failure or delay by any party to exercise any right or remedy under these Conditions of Sale for Online-Only Auctions and Authorship Warranty will act as a waiver or release of that right or remedy in whole or in part.

#### 16. LAW AND JURISDICTION

(a) The rights and obligations of the parties with respect to these Conditions of Sale for Online-Only Auctions and Authorship Warranty, the conduct of the online-only auction and any matters arising out of or in connection with the online-only auction will be governed by and interpreted in accordance with New York law, excluding its conflicts of law rules.

(b) Phillips, Seller and all bidders and buyers agree to the exclusive jurisdiction of the (i) state courts of the State of New York located in New York City and (ii) the federal courts for the Southern and Eastern Districts of New York to settle all disputes arising out of or in connection with all aspects of all matters or transactions to which these Conditions of Sale for Online-Only Auctions and Authorship Warranty relate or apply.

(c) All bidders and Sellers irrevocably consent to service of process or any other documents in connection with proceedings in any court by facsimile transmission, personal service, delivery by mail or in any other manner permitted by New York law or the law of the place of service, at the last address of the bidder or Seller known to Phillips.

#### 17. FURTHER ACKNOWLEDGEMENTS AND REPRESENTATIONS APPLICABLE TO NON-FUNGIBLE TOKEN TRANSACTIONS

The online-only auction offers for sale an NFT which is encrypted with an artist's signature to verify the rightful owner and authenticity of the original digital file to which the NFT relates through the use of blockchain encryption. Upon transfer of the NFT to the buyer and completion of payment in full as set out in these Conditions of Sale, Phillips will transfer to buyer the ownership right to the NFT. For the avoidance of doubt, Phillips is not selling any ownership rights to the digital artwork file related to the NFT; Phillips is only selling the ownership rights to the NFT. Where the sale and purchase of an NFT is involved, you

understand and agree that:

- (a) NFTs are not issued, minted or tokenized by Phillips, but by third-party administrators and Phillips is solely acting as the NFT Seller's agent to offer the NFT for sale at the online-only auction, and for potentially storing the NFT during the online-only auction and prior to transfer to the buyer;
- (b) Phillips does not make any representations or warranties as to the following:
  - i. the characteristics of the Artwork other than what is represented in the NFT's code, i.e. the Smart Contract;
  - ii. the behavior and performance of the Artwork and the NFT, including without limitation its replication process and activity, dates on which replications may occur, potential jams and replications arising from jams, and the quantity, value, condition or originality of such replications;
  - iii. the uniqueness of the Artwork;
  - iv. the authenticity of the Artwork, which you are responsible for reviewing and understanding all blockchain technology and encryption mechanisms to verify yourself;
  - v. the ability or inability of the Artwork, or of the Children, to generate or produce derivative NFT digital files (resulting from the NFT's potential programmable nature to create derivative works); or the characteristics, number of potential replications (not only from the Artwork but from any of the Children), behavior, or authenticity of any such derivative NFT digital files; however, all ownership rights to such derivative works will also be transferred to the buyer pursuant to the payment terms set out in these Conditions of Sale;
- (c) in offering the NFT for sale Phillips and the Seller are not providing financial or investment advice and you acknowledge and understand that the value of cryptoassets can fluctuate considerably and may go up or down.
- (d) We cannot and do not represent or warrant:
  - i. that an NFT is reliable, compatible with your or others' computer systems up-to-date or error-free, compatible with your digital wallet; meet your requirements, or that defects in the NFT will be corrected;
  - ii. that an NFT or the delivery mechanism for NFT are virus-free or free of other harmful components
  - iii. the accuracy or reliability of any simulation or videos depicting the intended performance of the Artwork whether that is displayed on Phillips.com or on any other platform;
- (e) Phillips is only selling the ownership rights to the NFT and in no way is Phillips associated with or responsible for any resales or secondary market sales of any derivative works generated by the NFT, the Artwork or the Children. Any such sales will be conducted on a platform to be decided and identified by the seller and in no way is Phillips in control of or responsible for any such sales.
- (f) Phillips does not own any rights to the NFT;
- (g) Transfer of ownership in an NFT will only transfer those property rights to the digital file tokenized by the NFT;
- (h) Transfer of ownership to an NFT will not transfer any intellectual property rights to the Artwork or to the Children to which the NFT relates; and in no way will transfer any property rights in the Artwork or the Children, other than the right to display such Artwork or Children;
- (i) Transfer of ownership to an NFT will not guarantee continuing access to the digital file to which it relates and you further acknowledge and agree to the risks associated with purchasing, using, transferring, and owning NFTs, including, but not limited to, risk of losing access to NFT due to loss of private key(s), custodial or buyer error, hacking, security breaches or mining attacks, regulatory interference in one or more jurisdictions, token taxation, personal information disclosure, uninsured losses, and other unanticipated and volatility risks.
- (j) You have the necessary understanding regarding NFTs, token wallets and other storage mechanisms, cryptocurrencies such as Ether and their usage, storage, functionality, programming, and any other of their material characteristics, as well as blockchain technology and software systems, to fully understand and agree to these Conditions of Sale and all risks outlined herein;
- (k) You have carefully reviewed the terms and code of the Smart Contract in relation to the NFT for sale, and you fully understand the terms and the functionality of those terms;
- (l) Any payment made by you in Ether for the purchase of the NFT will be made from a wallet to which you have title and Phillips shall have no liability for any payment made that is unsuccessfully transmitted to Phillips due to a failure of the NFT wallet system, and you shall bear all responsibility in confirming that any such payment has reached Phillips;
- (m) You are solely responsible for determining what, if any, taxes apply to your purchase of an NFT. Phillips is not responsible for determining the taxes that apply to your purchase of an NFT;
- (n) There are risks associated with the use of internet-based currency such as Ether, including but not limited to, the risk of hardware, software and internet connections, the risk of malicious software introduction, and the risk that third parties may obtain unauthorized access to information stored within your wallet. You accept and acknowledge that Phillips will not be responsible for any communication failures, disruptions, errors, distortions or delays you may experience when participating in the online-only auction, and/or in purchasing the NFT, however caused.
- (o) The characterization and regulatory scheme governing NFTs, cryptocurrencies, and blockchain technology is uncertain and undetermined, and you acknowledge that your purchase of the NFT complies with applicable laws and regulations in your jurisdiction. You further acknowledge that new regulations or policies may materially adversely affect the online-only auction, the NFT or the value of cryptocurrency.
- (p) NFTs are provided on an "as is" and "as available" basis without warranties or guarantees of any kind, and we expressly disclaim all implied warranties as to, and liability with respect to, the NFTs implied warranties of merchantability, fitness for a particular purpose, title, non-infringement description, size, quality, condition, attribution, authenticity, rarity, importance, medium, and provenance of the NFT; and
- (q) TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW: (I) IN NO EVENT WILL PHILLIPS BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES OF ANY KIND INCLUDING, BUT NOT LIMITED TO, ANY LOSSES, DAMAGES OR CLAIMS ARISING FROM: (A) ERRORS SUCH AS FORGOTTEN PASSWORDS, INCORRECTLY CONSTRUCTED TRANSACTIONS, OR MISTYPED ADDRESSES; (B) SERVER FAILURE OR DATA LOSS; (C) CORRUPTED WALLET FILES; (D) ANY UNAUTHORIZED THIRD-PARTY ACTIVITIES, INCLUDING WITHOUT LIMITATION THE USE OF VIRUSES, PHISHING, BRUTEFORCING OR OTHER MEANS OF ATTACK AGAINST THE NFT ARISING OUT OF OR IN ANY WAY RELATED TO THE SALE OR USE OF NFTs OR OTHERWISE RELATED TO THESE TERMS, REGARDLESS OF THE FORM OF ACTION, WHETHER BASED IN CONTRACT, TORT OR ANY OTHER LEGAL OR EQUITABLE THEORY; AND (II) IN NO EVENT WILL THE AGGREGATE LIABILITY OF PHILLIPS WHETHER IN CONTRACT, WARRANTY, TORT OR OTHER THEORY, ARISING OUT OF OR RELATING TO THESE CONDITIONS OF SALE OR OWNERSHIP OF NFTs, EXCEED THE AMOUNT YOU PAY TO PHILLIPS FOR THE NFT.

## AUTHORSHIP WARRANTY

Phillips warrants the authorship of the NFT token in the Online-Only sale described in headings in BOLD or CAPITALIZED type for a period of five years from date the auction closes , subject to the following exclusions and limitations.

(a) Phillips gives this Authorship Warranty only to the original buyer of record (i.e., the registered successful bidder) of any lot. This Authorship Warranty does not extend to (i) subsequent owners of the property, including purchasers or recipients by way of gift from the original buyer, heirs, successors, beneficiaries and assigns; (ii) property where the description in the online-only auction particulars states that there is a conflict of opinion on the authorship of the property; (iii) property where our attribution of authorship was on the date the online-only auction opened, consistent with the generally accepted opinions of specialists, scholars or other experts; (iv) property whose description or dating is proved inaccurate by means of scientific methods or tests not generally accepted for use at the time of the online- only auction opened or which were at such time deemed unreasonably expensive or impractical to use or likely in our reasonable opinion to have caused damage or loss in value to the lot or (v) property where there has been no material loss in value from the value of the lot had it been as described in the heading of the online sale particulars.

(b) In any claim for breach of the Authorship Warranty, Phillips reserves the right, as a condition to cancelling rescinding any sale under this warranty, to require the buyer to provide to us at the buyer's expense the written opinions of two recognized experts approved in advance by Phillips. We shall not be bound by any expert report produced by the buyer and reserve the right to consult our own experts at our expense. If Phillips agrees to rescind a sale under the Authorship Warranty, we shall refund to the buyer the reasonable costs charged by the experts commissioned by the buyer and approved in advance by us.

(c) Subject to the exclusions set out in subparagraph (a) above, the buyer may bring a claim for breach of the Authorship Warranty provided that: (i) he or she has notified Phillips in writing within three (3) months of receiving any information which causes the buyer to question the authorship of the lot, specifying the online-only auction in which the property was included, the lot number in the online-only auction and the reasons why the authorship of the lot is being questioned; and (ii) the buyer returns the lot to the Phillips company operating the online-only auction in the same condition as at the time the online-only auction closed and is able to transfer good and marketable title in the lot free from any third-party claim arising after the date the online-only auction closed. Phillips has discretion to waive any of the above requirements set out in this subparagraph (c) or subparagraph (b) above.

(d) The buyer understands and agrees that the exclusive remedy for any breach of the Authorship Warranty shall be rescission of the sale and refund of the original Purchase Price paid. This remedy constitutes the sole remedy and recourse of the buyer against Phillips, any of our affiliated companies and the Seller and is in lieu of any other remedy available as a matter of law or equity. This means that Phillips and none of our affiliated companies or the Sellers will be liable for loss or damage beyond the remedy expressly provided in this Authorship Warranty, whether such loss or damage is characterized as direct, indirect, special, incidental or consequential, or for the payment of interest on the original Purchase Price.