

## UK CONDITIONS OF SALE AND AUTHORSHIP WARRANTY FOR NON-FUNGIBLE TOKENS

*Effective as of 1 July 2021*

These Conditions of Sale and Authorship Warranty for Non-Fungible Tokens (“NFT Conditions of Sale”) set forth below govern the relationship between bidders and buyers (“you,” “your,” “bidders,” “buyers”), on the one hand, Phillips Auctioneers Limited, Registered in England with Company Number 04228373, (“Phillips,” “we”, “our” or “us”) and the sellers, on the other hand. All prospective buyers should read these NFT Conditions of Sale, the UK Auction Buyer’s Guide, the Important Notices, VAT & Tax Guide and the Authorship Warranty carefully before bidding on an NFT (defined below).

### 1 Introduction

By bidding on an NFT at auction, you agree to be bound by these NFT Conditions of Sale as modified by any additional notices or terms published in the saleroom or announced by the auctioneer prior to the auction.

By bidding on an NFT Lot at the auction, whether in person, through an agent, by written bid, by telephone bid or other means, bidders and buyers agree to be bound by these NFT Conditions of Sale, as so changed or supplemented.

These NFT Conditions of Sale, as so changed or supplemented, contain all the terms on which Phillips and the seller contract with the buyer.

### 2 Phillips as Agent

Phillips acts as an agent for the seller of the NFT Lot, unless otherwise indicated in the auction catalogue, or lot page, or at the time of auction. On occasion, Phillips may own a lot directly, in which case we will act in a principal capacity as a consignor, or a company affiliated with Phillips may own a lot, in which case we will act as agent for that company, or Phillips or an affiliated company may have a legal, beneficial or financial interest in a lot as a secured creditor or otherwise.

### 3 Descriptions and Condition

- a) The lot being offered subject to these NFT Conditions of Sale in this auction 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” and pursuant to the terms of its Smart Contract (defined below). Hereafter the lot may be described as a “Lot” or as the “NFT”. If you are the successful bidder and buyer of an NFT, you will, subject to the terms of these NFT Conditions of Sale, acquire title to the NFT.
- b) 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, compatibility or interoperability of the digital file comprising the Artwork, with digital platforms and/or software either now or in the future.

- c) For the avoidance of doubt, Phillips is not selling any ownership rights in the Artwork to which the NFT relates, or to the copyright in the Artwork. Phillips is only selling the ownership rights in the NFT.
- d) 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, and further acknowledge that it is their sole responsibility to conduct pre-bidding diligence into the NFT and that they assume all risk of loss or damage to the NFT upon transfer of the NFT to them as the buyer (in accordance with these NFT Conditions of Sale) including without limitation, responsibility to provide appropriate maintenance (including without limitation, hosting) and security relating to the NFT. 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 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.
- e) Online descriptions of the NFT may include an Etherscan link to the blockchain, a description of the 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.
- f) 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 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.
- g) 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.

### 4. Condition

- a) You agree that the NFT is sold “as is” and in the condition that it is in at the time of the auction, subject to any right of cancellation as described in paragraph 14 below.

b) 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.

c) Phillips will provide prospective bidders with an Etherscan link to the "Smart Contract" for the NFT. The "Smart Contract" is the Ethereum blockchain based contract governing the programming and terms of the NFT. You hereby acknowledge and agree that you are solely responsible for reviewing and inspecting the Smart Contract prior to purchase, and that by bidding on the NFT you are agreeing to the terms and conditions specified in the Smart Contract by the Seller. You acknowledge and agree that Phillips' staff are not Information Technology or data experts, and that by bidding on 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. Phillips makes no representations or warranties in relation to the condition, performance, security, quality, utility, compatibility or interoperability of or the terms or representations and warranties contained in the NFT, its Smart Contract, or the Artwork related to the NFT.

d) 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.

## 5. Viewing

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

## 6. Estimates

Estimates noted on the Lot page are intended as a guide for prospective buyers. Any bid within the high and low estimate range should, in Phillips' opinion, offer a chance of success. However, many lots achieve prices below or above the estimates. Estimates may not be relied on as a prediction of the selling price or value of the lot and may be revised from time to time by Phillips in our absolute discretion. Neither Phillips nor any of our affiliated companies shall be liable for any difference between the pre-sale estimates for any lot and the actual price achieved in the auction or upon resale. Estimates do not include Buyer's Premium or other applicable charges and taxes.

## 7. Registration and Approval

### ***NFT Bidding Registration Requirements***

- a) To bid on an NFT you must, prior to bidding, have a wallet capable of supporting and accepting the token type identified on the NFT Lot's page. Token types may include but are not limited to an ERC-721 token, or an ERC-1155 token.
- b) 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.

### ***New clients***

- c) If you do not have an existing Phillips bidding account, you can create one by providing the information requested on our registration page for the auction. This information may include a valid credit card and other information and verification information required by Phillips, including:
  - 1) For private individuals:
    - (i) full name, nationality and date of birth;
    - (ii) a copy of a government issued photo ID (e.g. passport, national ID card); and
    - (iii) 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
    - (iv) a valid credit card in your name.
  - 2) For companies:
    - (i) company name, place of incorporation/registration; registered number and nature of business;
    - (ii) registered address (and business address if different)
    - (iii) directors, shareholders and authorized signatories (if different than the directors)
    - (iv) 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.

### ***Existing clients***

- d) If you have an existing bidding account with Phillips, you will be asked to confirm your account details when you register to bid on the NFT and may be asked to provide updated identification, credit and payment information based on the NFT bidding requirements. You can view and edit your information by clicking on 'My Account' online or on the Phillips App.

## 8. Conduct of the Auction

## **Reserves**

- a) Unless a Lot is accompanied by the symbol [•] each Lot in the auction is offered for sale subject to a reserve. The reserve will not exceed the low estimate of the Lot. For Lots sold in online only auctions, Phillips may, at our discretion, choose to lower the reserve for any Lot during the online only auction.

## **Actions Phillips Can Take**

- b) The auctioneer has discretion at any time to refuse any bid, withdraw any lot, re-offer a lot for sale (including after the fall of the hammer) if he or she believes there may be error or dispute and take such other action as he or she deems reasonably appropriate. Phillips shall have no liability whatsoever for any such action taken by the auctioneer. If any dispute arises after the sale, our sale record is conclusive. The auctioneer may accept bids made by a company affiliated with Phillips provided that the bidder does not know the reserve placed on the lot.
- c) in the case of an error or dispute and whether during or after the 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 auction of the NFT. Phillips will consider such claim in good faith. If in the exercise of our discretion under this paragraph, Phillips decides after the 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 NFT Conditions of Sale, including any other rights of cancellation set out in these NFT Conditions of Sale or under applicable law.

## **Bidding at the Auction**

- d) Phillips has absolute discretion to refuse admission to the auction or participation in the sale. All bidders must register for a paddle prior to bidding, supplying such information and references as required by Phillips.
- e) As a convenience to bidders who cannot attend the auction in person, Phillips may, if instructed by the bidder, execute written absentee bids on a bidder's behalf. Absentee bidders are required to submit bids on the Absentee Bid Form, a copy of which is printed in our catalogues or otherwise available from Phillips. Bids must be placed in the currency of the sale. The bidder must clearly indicate the maximum amount he or she intends to bid, excluding the buyer's premium and any applicable value added tax (VAT). The auctioneer will not accept an instruction to execute an absentee bid which does not indicate such maximum bid. Our staff will attempt to execute an absentee bid at the lowest possible price taking into account the reserve and other bids on the Lot. Any absentee bid must be received at least 24 hours in advance of the sale. In the event of identical bids, the earliest bid received will take precedence.

- f) Telephone bidders are required to submit bids on the Telephone Bid Form, a copy of which is printed in the auction catalogue or otherwise available from Phillips. Telephone bidding is available for lots whose low pre-sale estimate is at least £500. Phillips reserves the right to require written confirmation of a successful bid from a telephone bidder by fax or otherwise immediately after such bid is accepted by the auctioneer. Telephone bids may be recorded and, by bidding on the telephone, a bidder consents to the recording of the conversation.
- g) Bidders may also participate in an auction by bidding online through Phillips's online live bidding platform available on our website at [www.phillips.com](http://www.phillips.com) or the Phillips App available to download from the iTunes® App Store. Our online bidding platform is optimized to run on Google Chrome, Firefox, Safari, Opera and Internet Explorer browsers.
- h) While we do everything within our control to ensure your participation in the 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.
- i) Bidding in a live auction can progress quickly. To ensure that online bidders are not placed at a disadvantage when bidding against bidders in the room or on the telephone, the procedure for placing bids through Phillips's online bidding platform is a one-step process. By clicking the bid button on the computer screen, a bidder submits a bid. Online bidders acknowledge and agree that bids so submitted are final and may not under any circumstances be amended or retracted. During a live auction, when bids other than online bids are placed, they will be displayed on the online bidder's computer screen as 'floor' bids. 'Floor' bids include bids made by the auctioneer to protect the reserve. In the event that an online bid and a 'floor' or 'phone' bid are identical, the 'floor' bid may take precedence at the auctioneer's discretion. The next bidding increment is shown for the convenience of online bidders in the bid button. The bidding increment available to online bidders may vary from the next bid actually taken by the auctioneer, as the auctioneer may deviate from Phillips's standard increments at any time at his or her discretion, but an online bidder may only place a bid in a whole bidding increment. Phillips's bidding increments are published in the Guide for Prospective Buyers.
- j) The auctioneer will commence and advance the bidding at levels and in increments he or she considers appropriate. In order to protect the reserve on any lot, the auctioneer may place one or more bids on behalf of the seller up to but excluding the reserve without indicating he or she is doing so, either by placing consecutive bids or bids in response to other bidders. If a lot is offered without reserve, unless there are already competing absentee bids, the auctioneer will generally open the bidding at 50% of the lot's low pre-sale estimate. In the absence of a bid at that level, the auctioneer

will proceed backwards at his or her discretion until a bid is recognized and will then advance the bidding from that amount. Absentee bids on no reserve lots will, in the absence of a higher bid, be executed at approximately 50% of the low pre-sale estimate or at the amount of the bid if it is less than 50% of the low pre-sale estimate. If there is no bid whatsoever on a no reserve lot, the auctioneer may deem such lot unsold.

- k) When making a bid, whether in person, by absentee bid, on the telephone or online, a bidder accepts personal liability to pay the purchase price, as described more fully in Paragraph 10 Payment below, plus all other applicable charges
- l) By participating in the auction, whether in person, by absentee bid, on the telephone or online, each prospective buyer represents and warrants that any bids placed by such person, or on such person's behalf, are not the product of any collusive or other anti-competitive agreement and are otherwise consistent with federal and state antitrust law.
- m) Arranging absentee, telephone and online bids is a free service provided by Phillips to prospective buyers. While we undertake to exercise reasonable care in undertaking such activity, we cannot accept liability for failure to execute such bids except where such failure is caused by our willful misconduct.
- n) Employees of Phillips and our affiliated companies, including the auctioneer, may bid at the auction by placing absentee bids so long as they do not know the reserve when submitting their absentee bids and otherwise comply with our employee bidding procedures.

#### **Bidding Increments**

- o) The sale will be conducted in pounds sterling (GBP). Bidding generally opens below the low estimate and advances in increments of up to 10%, subject to the auctioneer's discretion. Absentee bids that do not conform to the increments set below may be lowered to the next bidding increment.

UK£50 to UK£1,000	by UK£50s
UK£1,000 to UK£2,000	by UK£100s
UK£2,000 to UK£3,000	by UK£200s
UK£3,000 to UK£5,000	by UK£200s, 500, 800 (e.g. UK£4,200, 4,500, 4,800)
UK£5,000 to UK£10,000	by UK£500s
UK£10,000 to UK£20,000	by UK£1,000s
UK£20,000 to UK£30,000	by UK£2,000s
UK£30,000 to UK£50,000	by UK£2,000s, 5,000, 8,000
UK£50,000 to UK£100,000	by UK£5,000s
UK£100,000 to UK£200,000	by UK£10,000s
above UK£200,000	at the auctioneer's discretion

The auctioneer may vary the increments during the course of the auction at his or her own discretion.

- p) By placing a bid on an NFT Lot, you accept personal liability to pay the Purchase Price, as described more fully in

Paragraph 10 Payment below, plus all other applicable charges unless it has been explicitly agreed in writing with Phillips before the commencement of the 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.

- q) Subject to the auctioneer's reasonable discretion, the highest bidder accepted by the auctioneer will be the buyer of the Lot and the striking of the hammer marks the acceptance of the highest bid, unless special circumstances require Phillips to exercise its discretion.
- r) 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 of the striking of the hammer. The buyer of the NFT will enter into the Smart Contract governing that NFT with the Seller at that time. Risk and responsibility for the lot passes to the Buyer as set out in Paragraph 10 Payment below. You are solely responsible for reviewing the terms of the Smart Contract governing the NFT prior to bidding.
- s) Winning bidders will be notified and contacted by email after the auction
- t) If an NFT lot is not sold, the auctioneer will announce that it has been "passed," "withdrawn," "returned to owner" or "bought-in."
- u) Any post-auction sale of lots offered at auction shall incorporate these NFT Conditions of Sale as if sold in the auction unless the buyer and Phillips agree otherwise in writing.
- v) For the benefit of international clients, pre-sale estimates in the auction catalogue may be shown in US dollars and/or euros and, if so, will reflect approximate exchange rates. Accordingly, estimates in US dollars or euros should be treated only as a guide. If a currency converter is operated during the sale, it is done so as a courtesy to bidders, but Phillips accepts no responsibility for any errors in currency conversion calculation. Phillips does not offer a currency converter for any form of cryptocurrency and you are solely responsible for such conversion should you wish to.

#### **9. Purchase Price**

- a) 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 taxes and fees, including any transaction fees associated with the Ethereum blockchain platform inclusive of but not limited to any transfer or network fees associated with transferring the NFT to the Buyer's digital wallet (i.e. 'gas fee') (together the "Purchase Price").
- b) You agree and acknowledge that you are responsible for any gas fees associated with any and all transfers of the NFT from Phillips' digital wallet to your digital wallet, and any transfers you may make in the future.

- c) The Hammer Price is the final, highest bid accepted for the NFT by the auctioneer.

#### **Buyer's Premium**

- d) 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:

- 26% of the hammer price up to and including £450,000,
- 21% of the portion of the hammer price above £450,000 up to and including £4,500,000 and
- 14.5% of the portion of the hammer price above £4,500,000.

Phillips reserves the right to pay from our compensation an introductory commission to one or more third parties for assisting in the sale of property offered and sold at auction.

#### **Taxes**

- e) VAT, 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. By bidding on an NFT Lot you acknowledge and agree that it is your responsibility to pay these and any taxes that are due on the purchase of the NFT, including those arising but not collected at the time of the sale of the NFT or applicable through retroactive and applicable legislation. All prices, fees, charges and expenses set out in these NFT Conditions of Sale are quoted exclusive of any applicable VAT.

#### **Resale Royalties**

- f) The NFT may be subject to resale royalties on any subsequent resales of the NFT (i.e. any sales subsequent to the first transfer of ownership from the artist). On any subsequent resale of the NFT, the successful bidder and buyer of the NFT may be obligated, on the Seller's behalf, to collect and remit to the Seller resale royalties equal to a percentage of the resale price of the NFT. The resale royalty percentage will be identified in the Smart Contract relating to the NFT.
- g) Other resale royalties and transaction duties imposed by law may also apply in relation to such resales.
- h) NFT Lots which are being re-sold in the UK may be subject to the UK Artist's Resale Right Regulations 2006 ("Regulations") in addition to the resale royalties specified in the Smart Contract relating to the NFT. Where the Regulations apply to the NFT lot, the buyer agrees to pay to us an amount equal to the resale royalty provided for in those Regulations and we undertake to the buyer to pay such amount to the artist's collection agent (where applicable). In circumstances where (i) we are on notice that the resale royalty is payable or (ii) we have not been able to ascertain the nationality of the artist, we will identify the lot with the symbol ♠ next to the lot number and will invoice the resale royalty to the buyer. If we subsequently determine that the nationality of the artist does not entitle him/her to the

resale royalty on the lot, we will arrange a refund to the buyer of the amount of the royalty paid to us. If, after a sale in which we did not collect the resale royalty on a particular lot, we become aware that information provided to us prior to the auction concerning an artist's nationality was incorrect and the artist is entitled to the resale royalty on the lot, the buyer shall pay the resale royalty to us upon receipt of an invoice

#### **10. Payment**

- a) Winning bidders are required to pay for purchased NFT Lots immediately following the auction.

#### **Payment Options**

- b) With respect to NFT lots, we will accept payment in the currency of the Saleroom or alternatively in Ether or Bitcoin, as specified in the NFT Lot description, provided always that the *Cryptocurrency Payment Conditions* referenced below are met to Phillips' satisfaction.

#### **Cryptocurrency Payment Conditions**

- c) Winning bidders electing to pay the total purchase price for the Lot in either Ether or Bitcoin may do so, provided the winning bidders meets each of the following conditions to Phillips' satisfaction:
- (i) The winning bidder makes the payment via a digital wallet transfer directly to Phillips;
- (ii) The winning bidder demonstrates to Phillips' satisfaction that the payment is made from a digital wallet registered solely in their name and maintained on one of the following platforms:
- Coinbase Custody Trust;
  - Coinbase, Inc.;
  - Fidelity Digital Assets Services, LLC;
  - Gemini Trust Company, LLC; or
  - Paxos Trust Company, LLC.
- (iii) The winning bidder provides Phillips with all information and documentation we request to verify their identity (which may include verification via a video call) and to confirm that the Ether or Bitcoin payment was made from a digital wallet registered in their name and maintained on one of the platforms listed above.
- (iv) Please note we will not accept:
- payments from self-hosted wallets or from digital wallets hosted on other exchange platforms;
  - partial payments from multiple digital wallets or payments in multiple currencies.
- (v) If any of the above conditions are not met, the winning bidder must pay the total purchase price for the Lot in GBP Sterling.

#### **Cryptocurrency Payment Representations and Warranties**

d) If you satisfy the above special conditions and elect to pay the purchase price of the Lot in Ether or Bitcoin, you represent and warrant as follows:

- (i) your bids in the Auction will not exceed the amount of Ether or Bitcoin you own;
- (ii) at the time of placing your bids, you have calculated the amount of Ether or Bitcoin you need to pay for the total purchase price and you have sufficient Ether or Bitcoin in your digital wallet to do so;
- (iii) you are solely responsible and liable to obtain and pay the amount of Ether or Bitcoin we invoice to you if you elect to pay in either of these currencies.
- (iv) you own the digital wallet and the cryptocurrency used to make the payment and they are not owned or controlled by a decentralized autonomous organization or corporation or otherwise shared with any other person;
- (v) the cryptocurrency and other assets in your digital wallet or account used to make the payment (i) were not sourced from a sanctioned person or person located in a sanctioned jurisdiction; (ii) do not breach any sanctions, anti-money laundering, anti-terrorism, anti-bribery or anti-corruption laws, and (iii) are not otherwise illegal or obtained in breach of any other applicable laws.

#### **Cryptocurrency Conversion Rates**

- e) If you are the winning bidder, satisfy the above *Cryptocurrency Payment Conditions* and elect to pay for the Lot in either Ether or Bitcoin, we will send you a Coinbase payment link invoice in Ether or Bitcoin (in accordance with your election. The amount due will be the Ether or Bitcoin equivalent of the GBP Sterling purchase price calculated by Coinbase at the time you make the payment. You will be responsible for any applicable network fees required to successfully conduct the transaction on the blockchain, using the conversion rate set by Coinbase.
- f) You acknowledge and agree that the price of Ether and Bitcoin, as with other cryptocurrencies, can be volatile and subject to upward and downward movements. If you are the winning bidder you must pay the Ether or Bitcoin equivalent of the total GBP Sterling purchase price for the Lot, (including any applicable taxes and fees) by using the Coinbase payment link embedded in the invoice we will send you. Payment must be made within 24 hours of the date of receipt of Phillips' invoice for the purchase of the Lot.
- g) Once you initiate a cryptocurrency payment transaction, the transaction cannot be reversed. This is inherent to the nature of the cryptocurrency network and not a policy set by us. You are responsible for verifying that you have input the correct details when making payment.

#### **Cancellation and refunds**

- h) Should the sale of the Lot be cancelled for any reason as described in these NFT Conditions of Sale, you understand and agree that any refund of the purchase price, will be paid to you in the Saleroom currency as referenced on your invoice, even if you paid for the Lot in Ether or Bitcoin.

#### **Payment in the Saleroom Currency**

i) Payments must be made by the invoiced party in pounds sterling as follows:

- **Payments by wire transfer.** Our account details are available on our website. Please reference the relevant invoice number when making payment.
- **Credit card:** Alternatively, payment can be made by credit card for invoices of £30,000 or less per auction. We accept American Express, Visa, MasterCard and UnionPay (UnionPay for in person transactions only).

#### **11. Transfer of Title, Risk and the NFT**

- a) Title in the purchased NFT will not pass to the buyer until Phillips has received payment from the buyer of the Purchase Price for the NFT in full and cleared funds.
  - b) Phillips will not transfer the NFT to you as the buyer until (i) we have received payment of its Purchase Price in full and cleared funds, (ii) you have paid all outstanding amounts due to Phillips or any of our affiliated companies, including any charges payable pursuant to these NFT Conditions of Sale, and (iii) 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 and security protocols.
  - c) To transfer title to you of the NFT, Phillips (or the Seller) will transfer the NFT to the digital wallet that you have specified which meets the Cryptocurrency Payment Conditions referenced above. 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.
  - d) If the Seller of the NFT 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.
  - e) You understand and acknowledge that not all digital wallets support storage of, or are compatible with a non-fungible token, and that you must own a digital wallet that supports storage of, or is compatible with, the token type identified on the Lot page for the NFT. 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 if you elect to pay the Purchase Price in GBP Sterling, you must still own a digital wallet in your name maintained on one of the acceptable platforms listed in the Cryptocurrency Payment Conditions above, and provide us with the wallet address, to enable us to transfer the NFT to you following receipt of the Purchase Price in full and cleared funds.
  - f) The recording of the transfer of the NFT to the Buyer on the blockchain will evidence execution of the Smart Contract between the Seller and the Buyer, and such operation and execution of the Smart Contract (including transfer of the NFT to the Buyer) shall constitute a settlement for the NFT in accordance with Phillips' usual auction process.

g) Risk in the NFT will transfer to you immediately upon the NFT being transferred to your digital wallet. From this point you will be 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 but not limited to: risk of loss or damage or corruption of data, risks associated with transferring, creating, or providing proper maintenance for the NFT including, without limitation, holding, hosting, securing, storing, or using the NFT or a digital wallet, and Phillips will not be responsible for any such risks or losses.

## 12. 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) of the 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.

## 13. 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 transfer the NFT back to Phillips' digital wallet, and we will then refund the Purchase Price paid by you as described in paragraph 10Payment above. The refund will constitute the sole remedy and recourse of the buyer against Phillips and the Seller with respect to such cancelled sale.

## 14. EU Consumer Rights Directive

If you are a consumer habitually residing in the European Union, the Seller of the NFT is not a consumer and you purchase the NFT in an online only Sale, 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 Limited, 30 Berkeley Square, London, London W1J 6EX. 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.

## 15. 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) Phillips premises and sale and exhibition venues are subject to CCTV video surveillance and recording for security, client service and bid monitoring purposes and will be filmed during the auction for simultaneous live broadcast on our and third party websites and applications. By remaining in these areas, you acknowledge that you may be photographed, filmed and recorded and grant your permission for your likeness and voice to be included in such recordings. If you do not wish to be photographed or filmed or appear in such recordings, please speak to a member of Phillips staff.

d) Your communications with Phillips, including by telephone and online (e.g. telephone and 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).

## 16. Limitation of Liability

(a) Subject to subparagraph (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 lot 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 NFT Conditions of Sale 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.

## 17. Copyright

a) The copyright in all images, videos, illustrations and written materials produced by or for Phillips relating to the NFT, including the contents of the print and online catalogues and Lot and auction descriptions on the Phillips' website and other media channels, 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.

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

## 18. General

(a) These NFT Conditions of Sale, as changed or supplemented as provided in Paragraph 1 above, set out the entire agreement between the parties with respect to the transactions contemplated herein and supersede all prior and contemporaneous written, oral or implied understandings, representations and agreements.

(b) Notices to Phillips shall be in writing and addressed to the department in charge of the sale, quoting the reference number specified at the beginning of the sale catalogue. Notices to clients shall be addressed to the last address notified by them in writing to Phillips.

(c) These NFT Conditions of Sale are not assignable by any buyer without our prior written consent but are binding on the buyer's successors, assigns and representatives.

(d) Should any provision of these NFT Conditions of Sale be held void, invalid or unenforceable for any reason, the remaining provisions shall remain in full force and effect. No failure by any party to exercise, nor any delay in exercising, any right or remedy under these NFT Conditions of Sale shall act as a waiver or release thereof in whole or in part.

(e) No term of these NFT Conditions of Sale shall be enforceable under the Contracts (Rights of Third Parties) Act 1999 by anyone other than the buyer of the NFT.

## 19. Law and Jurisdiction



- a) The rights and obligations of the parties with respect to these NFT Conditions of Sale and Authorship Warranty, the conduct of the auction and any matters arising out of or in connection with any of the foregoing shall be governed by and interpreted in accordance with English law.
- b) For the benefit of Phillips, all bidders and sellers agree that the Courts of England are to have exclusive jurisdiction to settle all disputes arising in connection with all aspects of all matters or transactions to which these Conditions of Sale relate or apply. All parties agree that Phillips shall retain the right to bring proceedings in any court other than the Courts of England.
- c) All bidders and sellers irrevocably consent to service of process or any other documents in connection with proceedings in any court by personal service, delivery by mail or in any other manner permitted by English law, the law of the place of service or the law of the jurisdiction where proceedings are instituted at the last address of the bidder or seller known to Phillips.

**16. Additional terms regarding Non-Fungible Token (NFT) Lots and Transactions**

- a) NFT Lots are offered for sale subject to these NFT Conditions of Sale.
- b) Each NFT is encrypted with an artist's signature to verify the authenticity of the original digital file to which each NFT relates through the use of blockchain encryption.
- c) Following Phillips' receipt of the buyer's payment for the NFT in full and cleared funds, as set out in these NFT Conditions of Sale, Phillips will transfer ownership rights in the NFT to the buyer.
- d) Phillips is only selling ownership rights in the NFT. Phillips is not selling ownership rights in the Artwork file related to the NFT.
- e) Where the sale and purchase of an NFT is involved, you understand and agree that:
  - i. NFTs are not issued, minted or tokenized by Phillips, but by third-parties. Phillips is acting solely as the NFT Seller's agent in marketing and offering the NFT for sale Phillips does not make any representations or warranties as to the following:
  - ii. the characteristics of the Artwork other than what is represented in the NFT's code, i.e. the Smart Contract;
  - iii. the behavior, character, condition, availability, performance and operability of the NFT, or the Artwork, including without limitation any replication process or activity, or derivative form of the NFT particular to the NFT including the quantity, value, condition or originality of any derivative works;
  - iv. the uniqueness of the Artwork;
  - v. the authenticity of the NFT or the Artwork,. Potential buyers are responsible for reviewing and verifying the blockchain technology and encryption mechanisms underlying the NFT;
- f) 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.
- g) Phillips cannot and does not represent or warrant:
  - i. that the NFT is reliable, compatible or operable with your or others' computer systems, up-to-date or error-free, compatible or operable with your digital wallet; meets your requirements, or that defects in the NFT will be corrected;
  - ii. the NFT or the delivery mechanism for the NFT are virus-free or free of other harmful components or corruption;
  - iii. the accuracy or reliability of any simulation or videos depicting the intended condition or performance of the NFT or the Artwork whether that is displayed on Phillips.com or on any other platform;
- h) Phillips is only selling ownership rights to the NFT at the time of Phillips Auction. Phillips is not associated with or responsible for any subsequent resales of the NFT or the Artwork.
- i) Phillips is acting as agent for the Seller of the NFT and does not have any ownership rights to the NFT itself;
- j) Phillips shall not be involved in or responsible in any way for the operation and execution of the Smart Contract or the transactions or arrangements regarding any subsequent transfer of ownership of the NFT;
- k) Phillips shall not be responsible for any gas fees, or any other fees, related to the transfer of the NFT to the Buyer's digital wallet or to any other subsequent wallet;
- l) Transfer of ownership to an NFT will not transfer any intellectual property rights to the Artwork; and will not transfer any property rights in the Artwork, other than the right to display such Artwork;
- m) Transfer of ownership to an NFT will not guarantee continuing access to the digital artwork file to which it relates and you further acknowledge and accept the risks associated with purchasing, using, transferring, and owning NFTs, including, but not limited to, the risk of losing access to NFT including without limitation, resulting from loss of private key(s), custodial or buyer error, data corruption, malfunction, hacking, security breaches or mining attacks, obsolescence, regulatory interference in one or more jurisdictions, token taxation, personal information disclosure, uninsured losses, and other unanticipated risks and volatility associated with NFTs;
- n) You (as a potential bidder and buyer) have the necessary knowledge or have taken professional advice regarding NFTs, token wallets and other storage mechanisms, required digital wallet security, NFT hosting, and maintenance, cryptocurrencies and their usage, storage, functionality, programming, and other material characteristics, as well as blockchain technology and software systems .
- o) You fully understand and agree to these NFT Conditions of Sale and the risks outlined in these terms, and are able to receive and store any NFTs as described in these terms.;
- p) You or your professional advisor(s) have carefully reviewed the terms and source code of the Smart Contract relating to the NFT, and you fully understand the terms and the functionality of those terms;
- q) Any payment made by you in a cryptocurrency accepted by Phillips for the purchase of the NFT will be made from a wallet which you own entirely. Phillips shall have no liability for any payment made that is unsuccessfully transmitted to Phillips due to a failure of the NFT wallet system. You shall bear all responsibility for ensuring that any such payment reaches Phillips;

- r) 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;
- s) There are risks associated with the use of internet-based currency such as Ether and Bitcoin, including but not limited to, risks associated with hardware, software and internet connections, the risk of malicious software introduction and corruption of data, 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 such communication failures, disruptions, errors, distortions or delays you may experience when participating in the auction, and/or in purchasing the NFT, however caused.
- t) 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 at the time of the NFT being transferred to you. You further acknowledge that new regulations or policies may materially adversely affect the, the NFT, its sale and/or the value of cryptocurrency.
- u) Phillips offers NFTs for sale on an "as is" and "as available" basis without warranties or guarantees of any kind, and Phillips expressly disclaims 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, execution, operability and provenance of the NFT.
- v) Neither Phillips nor the Seller represent that the NFT is free from viruses or malware, or that it will function or operate as any bidder or Buyer expects without error or mistakes; and
- w) **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; OR (E) CONTINUED OPERABILITY OF 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 NFT CONDITIONS OF SALE OR OWNERSHIP OF NFTs, EXCEED THE AMOUNT YOU PAY TO PHILLIPS FOR THE NFT.**
- of five years from date of sale by Phillips, 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 catalogue 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 of sale 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 publication of the catalogue 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 catalogue entry.
- (b) In any claim for breach of the Authorship Warranty, Phillips reserves the right, as a condition to 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 months of receiving any information which causes the buyer to question the authorship of the lot, specifying the auction in which the property was included, the lot number in the auction catalogue 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 auction in which it was purchased in the same condition as at the time of its auction and is able to transfer good and marketable title in the lot free from any third party claim arising after the date of the auction. 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 Seller 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.

### Authorship Warranty

Phillips warrants the authorship of the NFT Lot in this auction described in headings in BOLD or CAPITALIZED type for a period

