



# Conditions of Sale <sup>v2.3</sup>

The terms and conditions herein (“Buyer Terms and Conditions,” “Conditions of Sale,” “Terms and Conditions,” or other similar pronouns) sets forth the terms of the agreement between the bidder, buyer, and/or representative of the buyer and/or bidder and/or representative (“Bidder,” “Buyer,” “Representative,” “Bidder/Buyer/Representative,” “you,” “your,” or other similar pronouns), as bidder and/or buyer and/or representative, and FORTUNA AUCTION LLC (“Fortuna,” “we,” “our,” or “us” or other similar pronouns), as auction house, regarding the sale of the property (“Property”) being offered in this auction. These terms govern your participation in the auction as a bidder and/or buyer and/or representative as well as your access to and use of any digital, print, and intellectual properties and materials owned by Fortuna. If you are using any digital platform including but not limited to websites, mobile applications, or online bidding platforms (“digital platform” or “digital platforms”), whether owned by Fortuna or a third party, additional terms and conditions may apply and shall be posted by or made available to you by the platform owner. We retain the right, in our sole discretion, to change these most recent Terms and Conditions from time to time, at any time, for any reason, and without notice to you. Any such changes shall be sent to you via posted mail, email, and/or posted online or otherwise made available to you by the means of our choosing. By participating in the auction and/or accessing, using, bidding, and/or buying, on any digital platforms at our auction, you accept and agree to be bound by these Terms and Conditions, as well as any additional terms and conditions required by the digital platform you are using. If you do not agree to these Terms and Conditions you may not participate in the auction and may not access or use any digital platform to register for, participate in, or access any of our auctions.

These Terms and Conditions, including any amendments made by Fortuna via published or posted notices and/or verbal announcements during the sale, constitute the entire terms and conditions upon which the Property listed in the catalog shall be offered for sale and/or sold by Fortuna Auction LLC and any consignor of such property for whom we serve as agent.

These Terms and Conditions shall bind the successors and assigns of all bidders and/or buyers and inure to the benefit of our successors and assigns. No waiver, amendment or modification of the terms herein, other than published or posted notices and/or oral announcements during the sale, shall bind us or our successors or assigns, unless explicitly stated in writing and signed by a Fortuna Authority.

## 1. TERMINOLOGY

The following terminology, which is used throughout these Terms and Conditions, shall be defined as follow:

**Hammer Price:** The Hammer Price is defined as the final and winning bid, secured by the landing of the gavel (hammer) during the live sale.

**Total Purchase Price:** The sum of the Hammer Price, the buyer’s premium (to be retained by us for our account and payable by the winning bidder/buyer), any associated fees and expenses due to us, and any applicable taxes.

**Fortuna Authority:** Fortuna Authority shall solely and exclusively refer to John Saxon, CEO.

## 2. BUYER’S PREMIUM

The following premiums will be applied to the buyer’s account, and due to Fortuna, on top of the Hammer Price:

- 25% on the first \$300,000
- 20% from \$300,001 to \$3,000,000
- 12.5% on the excess over \$3,000,000

## 3. BID INCREMENTS

USD \$1,000 - \$2,000	by \$100
USD \$2,000 - \$5,000	by \$250
USD \$5,000 - \$10,000	by \$500
USD \$10,000 - \$20,000	by \$1,000
USD \$20,000 - \$30,000	by \$2,000
USD \$30,000 - \$50,000	by \$2,500
USD \$50,000 - \$100,000	by \$5,000
USD \$100,000 +	by \$10,000

## 4. PROPERTY CONDITION, AUTHENTICITY, REPRESENTATION, AND WARRANTY

**4.1 Property is Sold “As Is”.** All Property is sold “As Is”, without any warranty or representation, expressed or implied, by us, that any Property is merchantable or suited for any purpose. The absence of a Property condition report does not imply any particular condition. All statements contained in this catalog, on our website, in any digital platform, in any materials, in any condition report, in any invoice, or elsewhere as it relates to this sale (“Published Materials”), as to source, authorship, origin, condition, provenance, period, culture, quality, importance, rarity, and/or historical significance are statements of opinion, and should not be treated as statements of fact. Fortuna shall not have any responsibility for any error or omission for any statement in Published Materials. The absence of a condition statement does not imply that the lot is in perfect condition or free from wear and tear, imperfections, or signs of aging.

**4.2 Property is Available for Inspection and Condition Reports are Available Upon Request.** It is your responsibility to inspect and/or request additional photographs, videos, and/or condition reports for any Property on which you intend to bid, prior to the day of the sale. Fortuna will not be held responsible or liable for providing such information to you in time for the sale. Though photographs are meant to provide an indication of condition, Fortuna takes no responsibility for the accuracy of its photographs. Colors and shades may look different on the screen to how they look on physical inspection, and images may not show the condition of a lot clearly. All bidders and buyers should rely solely upon their own in-person inspection.

**4.3 Certificates of Authenticity.** Fortuna will, from time to time, for various lots offered, obtain certificates of authenticity from the designer and/or manufacturer, when possible and practical, in our sole discretion and under our sole judgement. However, not all designers and manufacturers issue certificates upon request. In the event that you are a winning bidder and you attempt to obtain such a certificate from a designer and/or manufacturer and are unable to, you understand and agree that this will not constitute grounds to rescind the sale. Furthermore, you assume all such risks in the purchase of the lot(s) that you bid for and win, and will not hold Fortuna liable for any costs, expenses, losses, liabilities, and/or damages as a result of such events.

**4.4 Gemological Certificates and Reports.** Fortuna does not guarantee and accepts no responsibility for the accuracy of the information contained in any gemological reports and/or certificates. Fortuna uses such reports and/or certificates as an indication of condition and does not rely upon them as fact. Please note that regardless of whether a gemological report or certificate is provided with an auction lot, Fortuna cannot guarantee that any stone offered for sale is not lab-grown. Furthermore, different laboratories may differ in their assessments (including but not limited to origin, type, and extent of treatment) and thus such certificates and/or reports from different laboratories may contain different results.

If, following a sale, a buyer obtains a gemological laboratory certificate or report from a laboratory other than the one used by Fortuna, Fortuna will not be held liable for any differences among certificates or reports. From time to time, Fortuna will guarantee certain characteristics for a gemstone offered for sale and oftentimes, the sale is contingent upon receipt of a certificate confirming such characteristics. When such a situation occurs, Fortuna will explicitly and clearly state the terms of the guarantee.

**4.5 Timepieces.** Fortuna does not guarantee the working condition of any timepiece. All timepieces are sold without warranty. Fortuna attempts to identify significant damage and make note of such damage in catalog descriptions, when and where possible. However, Fortuna makes no guarantee as to the accuracy and completeness of any condition report of any timepiece. Catalog descriptions and condition reports do not necessarily include all faults, imperfections, or restorations performed on the timepiece. No warranties are made that watches in water-resistant cases are currently water-resistant. Most watches have been opened to find out the type and quality of movement. For that reason, watches with water resistant cases may not be waterproof and we recommend you have them checked by a competent watchmaker before use. Moreover, the lack of a condition report does not imply that any lot is in perfect condition or free from wear and tear, imperfections, or the results of aging. All responsibility lies with bidders and buyers for performing their own in-person inspection.

**4.6 Estimated Gemstone Weights.** Certain gemstone weights are estimated using techniques that yield approximate measurements. The values produced by these techniques and reported in the catalog descriptions are to be used as approximations, and should not be relied upon as exact measurements.

## 5. AUCTION PROCESSES, PROCEDURES, AND PLATFORMS

**5.1 Auctioneer's Rights and Permissions.** The auctioneer may sell, pass, withdraw, or advance a lot in any manner he or she decides and may split any bid increment for any lot at any time, all at his or her sole discretion. The auctioneer may also, in his or her sole discretion, for any reason he or she deems necessary, especially in the event that the auctioneer doubts the validity of a bid or a bidder, reject any bids, from any bidder, for any Property, at any sale and at any time. In event of a bidding dispute, the auctioneer has the sole, exclusive, and final decision in the selection of the winning bidder, the cancelation of the sale, the re-entering of a previously withdrawn lot, the re-opening and re-offering of a previously passed lot, and/or the re-selling or re-passing of the disputed lot. Any post-auction disputes that arise shall be resolved by review of our sales records, which shall act as a master record, and shall be conclusive in all respects.

**5.2 Property Withdraw, Lot Consolidation/Division, and Lot Re-Sequencing.** We reserve the right, in our sole discretion, for any reason we deem necessary, to withdraw any property from any sale at any time prior to the sale of the property, divide property of a lot up into multiple lots to be offered for sale, consolidate multiple lots into fewer lots to be offered for sale, or rearrange lot sequencing. You agree to hold Fortuna harmless for any such actions. Unless otherwise announced by the auctioneer at the time of sale, all bids are per lot as numbered in the catalog and no lots shall be divided or combined for sale.

**5.3 Reserves.** Unless otherwise indicated, all lots in the catalog are subject to a reserve. A reserve is a confidential minimum hammer price that a lot can be sold for. Any lots that are offered without reserve will be labeled "NO-RESERVE LOT" above the lot number. The reserve cannot be more than the low estimate of the lot.

**5.4 Estimates.** Estimates are based on the condition, rarity, quality and provenance of the lot and on prices recently paid at auction for similar property. Estimates may be subject to change. No party may rely on any estimate as a prediction or guarantee of the selling price of a lot or its value for any other purposes. Estimates do not include any buyer's premium or any other applicable taxes or charges.

**5.5 Consignor Integrity.** Under no circumstances is any consignor or representatives of any consignor allowed to bid on their own items. If such an event takes place, the consignor will be subject to all applicable penalties and Fortuna will be permitted full authority to resolve the matter in using any available means and manner contractually and legally permitted, as outlined in the Master Consignment Agreement.

**5.6 Bidding By Representative.** If you wish to send a representative to bid on your behalf, you must first seek and gain the express written approval of Fortuna. You and your Representative shall accept and agree to be bound by the Terms and Conditions herein. Furthermore, the Bidder and/or Buyer agree to be held liable for the actions of their Representative, pursuant to these Terms and Conditions. In such an event, we will need the Buyer's and/or Bidder's signature on a letter of authorization, to be provided by Fortuna upon request.

**5.7 Absentee Bidding, Phone Bidding, and Online Bidding Not Guaranteed.** We may permit and execute absentee bidding including written bids, telephone bidding, and internet bidding as a convenience to you, if you are unable or would prefer not to attend the auction in-person. We are not responsible for any errors or omissions related to this type of bidding in any way. You further agree to hold us harmless should we fail to execute any such bids or should the digital platform, software, tool, and/or technology that you used to bid fail you at any point, for any reason.

**5.8 Online Platforms and Bidding.** Fortuna may allow clients to bid online via our own website, mobile application, or other third-party online platforms. By using any of these digital platforms to participate in a sale, you acknowledge that you are bound by these Terms and Conditions, as well as any additional terms and conditions stipulated by the digital platforms. At any time, Fortuna may terminate, suspend, change, discontinue, or add to any aspect of the digital platforms and/or services, in our sole discretion, without liability. We also may restrict, suspend, or terminate use of access for anyone at any time when using any digital platform to participate in a sale. You acknowledge that Fortuna has no responsibility for any of the content, interaction, or risks associated with a third-party digital platform. Under no circumstances is Fortuna liable, directly or indirectly, for any loss or damage that you may incur on any digital platform.

**5.9 Bidding Changes.** You may not, under any circumstances, amend, retract or revoke your bid after it has been placed. We are not responsible for any errors you make in bidding.

**5.10 Title to the Property.** Upon the landing of the auctioneer's hammer, the winning Bidder shall have purchased the offered lot pursuant to, and subject to compliance with, these Terms and Conditions. At such a time the winning Bidder: (a) assumes full risk and responsibility therefrom; (b) if requested will sign a confirmation of purchase; (c) will pay the purchase price in full; and (d)

shall not be permitted to transfer the purchase to another party. With prior approval of Fortuna, a Bidder and/or Buyer may identify another person to bid on their behalf as a registered agent. Any person placing a bid as agent on behalf of another (whether or not such person has disclosed that fact or the identity of the principal) shall be jointly and severally liable with the principal under any contract resulting from the acceptance of a bid.

## 6. ACCOUNT SETTLEMENT & RECEIPT OF PROPERTY

**6.1 Balance Due and Due Date.** We reserve the right to request a copy of official identification (e.g., driver's license, passport) and front and back of a credit card to authenticate prospective bidders. You will be required to pay the total balance of your account, which is equivalent to the sum of the Total Purchase Price for each lot purchased. Payment is due within seven (7) calendar days of completion of the auction ("Payment Due Date"). If the buyer makes a partial payment, we shall, in our sole judgement, apply the partial payment to any particular line item or lots on the buyers account balance that we see fit in whichever manner we see fit. Fortuna will not deliver any Property to a winning Bidder until all lots won by the Bidder at auction are paid in full and there is no outstanding balance on the Bidder's account. Payment will not be deemed made in full until we have collected good funds for all amounts due and all funds have cleared our bank account. If a buyer fails to pay their outstanding balance by the Payment Due Date, Fortuna will charge the buyer's credit card for the outstanding balance.

**6.2 VAT and Sales Tax.** You are responsible for any applicable tax including any VAT, sales or compensating use tax or equivalent tax wherever such taxes may arise on the hammer plus buyer's premium. It is your responsibility to ascertain and pay all taxes due. Fortuna recommends you obtain your own independent tax advice. The successful bidder is responsible for any applicable taxes including any sales or use tax or equivalent tax wherever such taxes may arise on the Total Purchase Price. For lots Fortuna ships within the United States, a sales or use tax may be due on the Total Purchase Price, regardless of the nationality or citizenship of the successful bidder. Fortuna is currently required to collect sales tax for lots it ships to the following states: Illinois, New Jersey, New York, Pennsylvania and Virginia. In accordance with New York law, if Fortuna arranges the shipment of a lot out of New York State, New York sales tax does not apply, although sales tax or other applicable taxes for other states may apply. If you hire a shipper (other than a common carrier per the New York Department of Taxation and Finance), to collect the lot from Fortuna, Fortuna must collect New York sales tax on the lot at a rate of 8.875% regardless of the ultimate destination of the lot. If Fortuna delivers the lot to, or the lot is collected by a service provider in New York that you have hired, New York law considers the lot delivered to the successful bidder in New York and New York sales tax must be imposed regardless of the ultimate destination of the lot. In this circumstance, New York sales tax will apply to the lot even if Fortuna or a common carrier (authorized by Fortuna that you hire) subsequently delivers the lot outside New York. Successful bidders claiming an exemption from sales tax must provide appropriate documentation to Fortuna prior to the release of the lot or within 90 days after the sale, whichever is earlier. For shipments to those states for which Fortuna is not required to collect sales tax, a successful bidder may have a use or similar tax obligation. It is the successful bidder's responsibility to pay all taxes due. Fortuna recommends you consult your own independent tax advisor with any questions.

**6.3 Accepted Forms of Payment and Associated Limitations and Service Charges.** You may settle your account using the following accepted means of payment: cash, check, money order, cashier's check, book transfer, wire transfer, direct deposit, debit card, charge card, or credit card (the latter three collectively referred to herein as "Card" or "Cards"). The following Cards will be accepted: Visa, Mastercard, Discover, and/or American Express. A 3% service charge will be applied to the Total Purchase Price for all Card payments. Card payments shall not be accepted from first time buyers unless otherwise approved in writing by Fortuna and authorized by a Fortuna Authority. Card payments are limited to a maximum \$10,000 per Buyer/Bidder/Representative per auction. We reserve the right, in our sole discretion, for any reason we deem necessary, to permit or deny any form of payment for any Buyer/Bidder/Representative and the right to increase or decrease any maximums, minimums, or thresholds stated herein.

**6.4 Property Pickup or Delivery.** Prior to account settlement, you must inform Fortuna in writing (email is preferable) of your desired method of receipt of your Property—either pickup or delivery. If requesting delivery, Fortuna will arrange a fully-insured shipment for you with a reputable "common carrier" (e.g., DHL, FedEx, UPS, and/or USPS), however, you will be responsible for any and all insured shipping costs and/or costs affiliated with receiving the Property. If picking up, or requesting delivery to a New York mailing address, you understand that you will be subject to any applicable sales taxes, as detailed herein unless you have a valid tax exemption certificate. If you do not pick up or accept delivery of your purchased Property within ten (10) business days of account settlement, or if we have not come to some other written

agreement with regards to your receipt of the Property, Fortuna will charge a daily storage fee to cover, at a minimum, the insurance and management of your property. If you do not pick up or accept delivery of your purchased Property within ninety (90) business days of account settlement, or if we have not come to some other written agreement with regards to your receipt of the Property, we may consider that Property abandoned and rescind the sale on behalf of Property owner. We reserve the right to hold the merchandise until cleared or certified funds are received and your account is fully settled. You will be charged \$50 for each check returned for insufficient funds, and will be held liable for any fees or charges incurred by Fortuna for such an event. Unless exempt by law, all purchases (including buyer's premium) are subject to New York State Sales Tax.

## 7. BUYER'S DEFAULT AND RESCISSION OF SALE

**7.1 Buyer's Default.** If you fail to fully pay for your auction purchases, including all applicable expenses, fees, and taxes by the due date (seven calendar days after the date of sale) or if any of the terms and conditions herein are not complied with by you and/or your Representative or if we suspect, for any reason, that you or your Representative are fraudulent or are incapable of fulfilling your obligations as a Buyer pursuant to these Terms and Conditions, you will be in default, and Fortuna will be fully entitled to and may elect to pursue one or more of the following courses of action:

**7.1.1 Cancel the Sale.** We may cancel the sale and either offer the lot at a future auction, sell the lot privately, or return the lot to the consignor. Regardless of the course of action we elect to take, if the lot is re-sold you shall be held fully responsible for the difference between the original total balance due and the proceeds from the final sale as well as any fees and expenses we incur during the process of canceling and reselling the lot(s). If we are not able to resell the lot you shall be held fully responsible for the Total Purchase Price and any other fees and expenses originally due to us on the total balance due as well as any fees and expenses we incur during the process of canceling and attempting to resell the lot(s);

**7.1.2 Blacklist You.** We may blacklist you and prevent you from bidding with us indefinitely at our sole discretion, or we may require you to place a deposit with us before accepting future bids from you;

**7.1.3 Charge You Interest.** We may charge you interest at a rate of up to 1.5% per month or the maximum allowable by law, whichever is less, on the amount of your unpaid balance. The first interest payment will accrue one month after the due date, and will continue to accrue for each month the balance is unpaid; or

**7.1.4 Hold You Legally Responsible.** We can hold you legally responsible for the Total Purchase Price plus any applicable fees, interest, or taxes, as well as any additional legal fees, accounting fees, collections costs, incidental damages, expert fees, or other costs related to your default should we choose to begin legal proceedings for recovery of all outstanding amounts.

**7.2 Rescission of Sale Limitations.** We warrant, subject to the terms below, that the Property in our sales are Authentic. "Authentic" is defined as a genuine example, rather than a copy or forgery of: i) the work of a particular artist, author, or manufacturer, if the Property is described in the Heading as the work of that artist, author, or manufacturer; ii) a work created within a particular period or culture, if the Property is described in the Heading as a work created during that period or culture; or iii) in the case of gems, a work which is made of a particular material, if the Property is described in the Heading as being made of that material. If within six (6) months from the date of auction, the original buyer provides to Fortuna written notice claiming that the bold type in the first line of the auction catalog lot description ("Heading") is not an Authentic representation of the auction lot, Fortuna will duly consider such claim. Please note the Heading does not include any information other than in the Heading even if shown elsewhere in the auction lot description in bold type. As part of your claim submission you will need to give us written details, including full supporting evidence of your claim, the written opinion of at least one recognized expert in the field of the auction lot, and return the auction lot at your expense to Fortuna's offices in New York. If Fortuna confirms the Property is not Authentic, your only right under this par. 6 is to cancel the sale and receive a refund of the purchase price by you to us. We will not, under any circumstances, be required to pay you more than the purchase price nor will we be liable for any loss of profits or business, loss of opportunity or value, expected savings or interest, costs, damages, or expenses.

Claims of misrepresentation made by an original buyer will be considered unsubstantial and rescission of sale will be rejected if, for the lot(s) in question any of the following apply: (1) Representation of authenticity of such lot was in

accordance with the generally-accepted opinion of specialists, scholars, and authorities of that time at the time of sale; or (2) It was specifically mentioned in the auction catalog or on the Fortuna website that there was an existing conflict in expert opinion between specialists, authorities, and/or scholars regarding the authenticity of the lot, at the time of sale; or (3) The Heading is qualified, meaning limited by a clarification in an auction lot's catalog description (4) The representation of periods and/or dates in the catalog description were made using a reasonable amount of effort and with the tools and technology that were generally available and in common use at the time of publishing the sale—furthermore, if new tools, knowledge, and/or technology exists at the time of the claim, that was either not in existence, for which the accuracy was in dispute, for which was not in practice, or for which was not practically obtainable at the time of publication.

## 8. INTELLECTUAL PROPERTY RIGHTS

**8.1 Fortuna's Intellectual Property.** Fortuna owns, solely and exclusively, all rights, title, and interest in and to all intellectual property displayed and/or contained in and/or on our digital platforms, websites, mobile applications, social media accounts, print materials (including but not limited to catalogs, marketing materials, ads, business cards), and anywhere else our intellectual property might exist. Specific examples of the intellectual property referenced here, include but are not limited to, copyrights, patent rights, database rights, trademarks, trade secrets, trade names, moral rights, logos, graphics, audio, icons, other visuals, service marks, branding and brand marks, slogans, content, authorship rights, attribution rights, modification rights, software, data, code, property descriptions, print and digital catalog text, website and marketing material text, formatting and layout, look and feel, photographs, digital images, illustrations, and/or videos developed by us or for us—whether or not such intellectual property is registered in any jurisdiction. You are not permitted to claim ownership of, download, copy, reproduce, display, transfer, distribute, publish, sell, modify, perform, create derivative works from, or otherwise make use of or exploit in any way any such intellectual property, as defined explicitly and implicitly herein, without the express and written consent of a Fortuna Authority. Your use of or observance of anything contained on our website, digital platforms, mobile applications, or any other such tools, software, materials, or platforms should in any way be construed as granting any ownership, license or right to use any of our intellectual property without the necessary express written permission detailed herein. Fortuna may charge a licensing fee for any approved reproduction and/or use of any such property. We make no guarantee that you or anyone will be granted a license of permission to make use of any of our intellectual property.

**8.2 Legal Enforcement of Intellectual Property Rights.** If you violate intentionally or unintentionally, with or without knowledge of these Terms and Conditions, any of the terms and conditions herein with regards to intellectual property rights, you may be in violation of copyright laws and other laws of New York, the United States, and/or other countries and may be subject to liability for such unauthorized use. Fortuna will uncompromisingly enforce its intellectual property rights to the fullest extent of the law. Furthermore, by participating in any auction, visiting our website, digital platforms, mobile applications, or interfacing with Fortuna in any way, you agree to these Terms and Conditions and will grant Fortuna the right to fully pursue legal prosecution if you are found to be in violation of these Terms and Conditions.

**8.3 Violation of Your Rights.** If you believe or suspect that your intellectual property rights have been violated in any way by something we have used or are in use of, please kindly mail and/or email our NYC headquarters with the details. In your letter to us, please include your contact information including full name, phone number, email address, and mailing address; a description of the intellectual property you believe has been violated; and a statement by you, that the information in your letter is accurate, that you are either the intellectual property owner or authorized to act on the intellectual property owner's behalf, that you believe that the owner's rights have been violated, and that you would be willing to testify to your claims and the accuracy of your claims in court, under penalty of perjury. Please electronically or physically sign the letter and submit to us for our review.

## 9. GOVERNING LAW; JURISDICTION

**9.1 Governing Law.** This Agreement shall be governed by and construed in accordance with the domestic laws of the State of New York without giving effect to any choice or conflict of law provision or rule (whether of the State of New York or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of New York.

**9.2 Consent to Jurisdiction.** Each of the parties irrevocably (1) submits to the exclusive jurisdiction of the State courts of the State of New York (and the Federal courts having jurisdiction in the State of New York, County of New York) for purposes of any judicial proceeding that may be instituted in connection with any matter arising under or relating to this Agreement, (2) waives any objection that such party may have at any time to the laying of

venue of any action or proceeding brought in any such court, (3) waives any claim that such action or proceeding has been brought in an inconvenient forum, and (4) agrees that service of process or of any other papers upon such party by registered mail at the address to which notices are required to be sent to such party (Fortuna's primary NYC office address) shall be deemed good, proper and effective service upon such party, provided that this clause (4) shall not affect the right to effect service of process in any other manner permitted by the laws of the State of New York.

**9.3 Jury Waiver.** Each party hereby knowingly, voluntarily and irrevocably waives, to the fullest extent permitted by applicable law, any rights such party may have to a trial by jury in any judicial proceeding that may be instituted in connection with any matter arising under or relating to this agreement.

**9.4 Litigation Costs.** If any party resorts to legal action to enforce any of its rights pursuant to this Agreement, the prevailing party will be entitled to recover its costs and expenses associated with such legal action, including costs of investigation, expert fees, court costs, and reasonable attorneys' fees at trial or appeal. Attorneys' fees incurred in enforcing any judgment in respect of this Agreement are recoverable as a separate item.

## 10. SECURITY INTEREST

You hereby grant Fortuna, to the fullest extent permitted by applicable law, a security interest in and permit Fortuna to retain as collateral security, the Property and the proceeds of the sale of the Property, to secure the payment of any sums Buyer/Bidder/Representative are obligated to pay under these Terms and Conditions or of any other obligation or agreement or debt due Fortuna, and Buyer/Bidder/Representative agrees to execute any documents Fortuna may request to perfect this security interest. Fortuna will also retain all rights of a secured party under applicable law. Any foreclosure sale or other action to pursue Fortuna's rights will be governed by the UCC (which shall mean the New York Uniform Commercial Code, except where the Uniform Commercial Code of another state governs the perfection of a security interest in collateral located in that state).

Where two or more amounts are owed in respect to different transactions by the buyer to us and any of our other related entities, subsidiaries or parent companies within the Fortuna Luxury Group, we reserve the right to recover any balance due to any said entities, prior to settling with the buyer. If any sums due to us from the buyer, as a result of the activities described and contemplated in this Section 9, are not paid promptly, we reserve the right to impose a finance charge equal to 1.5% per month (or, if lower, the maximum interest permitted by applicable law), on all amounts due us, beginning on the 30th day following the sale, until the account is fully settled.

## 11. INDEMNIFICATION AND LIMITATION OF LIABILITY

**11.1 Indemnification.** You agree to defend and indemnify Fortuna, its affiliates and related entities, its officers, its directors, its employees and agents, and hold the same harmless from and against, any and all claims, demands, actions, liabilities, costs, losses and/or damages (including, without limitation, indirect, incidental, consequential, economic, compensatory, and/or business losses), and expenses (including, without limitation, reasonable attorneys' fees of counsel selected by the indemnified person, who may be in-house counsel, and any expert or accounting fees) in anyway arising out of or resulting from your use of any tools, software, digital platforms, websites, bidding platforms, or materials provided by Fortuna or any third party in connection to Fortuna, including but not limited to print catalogs, bidder registration forms (both print and digital), website content and functionality, any digital platform or service thereon, your placement or transmission of any messages, information, content, or other materials through email or any digital platform, or your deceptive omissions or fraudulent acts, or your breach of these Terms and Conditions, or your violation of any laws or regulations or any right of any third party (including infringement of any intellectual property rights of any entity). Furthermore, we reserve the right to assume exclusive control of any matter otherwise subject to indemnification by you, and in such case, you agree to cooperate with Fortuna in defense of any such claim. Fortuna shall provide prompt notice to you of any such claim or lawsuit, provided that we are made aware of such legal action, and, if it is one asserted by a third party, we shall provide reasonable assistance to you, at your expense, in your defense against any such claim or lawsuit.

**11.2 Limitation of Liability for Representation or Warranties.** Except as expressly provided herein, all property is sold "as is." Fortuna makes no explicit or implicit warranties or representations, as to the value, condition, accuracy of the description, attribution, authenticity, age, period attribution, or provenance of the property. The buyer agrees that Fortuna shall not be held liable for any damages or losses from errors or omissions in such things. Fortuna makes no guarantees or warranties with regards to the transfer of ownership or granted licenses or any intellectual property under any circumstances. Furthermore, if any act of God, terrorism, natural disaster or other similarly-unpredictable,

unanticipated, and uncontrollable event prevents Fortuna from fulfilling its obligations or causes damages, losses, or harm to any buyer in any way, the buyer agrees that Fortuna will not be held liable beyond any existing balance due at the time of the subject event and limited to the funds recoverable from insurance policies, provided that, at the time of the event, Fortuna retained such insurance.

**11.3 Limitation of Digital Warranties and Liabilities.** All online and digital platforms that Fortuna uses or offers, both in-house and third-party, including but not limited to, all functions, materials, content, experiences, and services, is provided "as is," "as available," and without warranty of any kind. Fortuna is not liable for any aspect of online and digital platform service, including but not limited to data processing, uptime, uninterrupted access, accuracy, or data. Fortuna makes no warranty or guarantee that any online and digital platform meets user expectations or requirements. Fortuna assumes no liability for any potential risk that may relate to online and digital platforms, including but not limited to viruses, lost data, stolen data, damaged data, or any other personal property that may be affected through the use of online and digital platforms. Fortuna also assumes no responsibility for any error or issue that relates to our auctions on any online or digital platform, including but not limited to bidding errors, downtime during an auction, loss in winning any lot offered in sale, or confusion or misunderstanding of platform operations or content. If you are dissatisfied with any such digital platforms, you shall cease use of the platform and notify the platform owner.

**11.4** If any part of these Terms and Conditions is for any reason invalid or unenforceable, the rest shall remain valid and enforceable.