

Buyers participating in Palm Beach Modern Auctions' ("PBMA") auctions, PBMA includes Urban Culture Auctions ("UCA"), acknowledge and accept the following "Auction Terms and Conditions." In the "Auction Terms and Conditions," the terms "you," "your," "buyer," "bidder," or similar terms mean a person bidding on or buying property. By registering to bid or by placing a bid through any means, you agree to be bound by the following terms and conditions:

1. Conduct of the Auction: The auctioneer has the right, in his/her sole discretion, to determine the conduct of the sale, including, without limitation, to advance the bidding, to reject any bid offered, to withdraw any lot, to reoffer and resell any lot, and to resolve any dispute in connection with the auction or sale. In any such case, the judgment of the auctioneer is final and shall be binding upon all auction participants. If the Internet stops working during an auction, the auctioneer has the right, in his/her sole discretion, to proceed with, or reschedule, the auction. You agree to allow PBMA to use your contact information, including your physical and email addresses, for marketing purposes including receiving eblasts and mailers.

2. Bid Increments: Auctions will be conducted in the following increments: from \$0, increments of \$25; from \$500, increments of \$50; from \$1000, increments of \$100; from \$3000, increments of \$250; from \$5,000, increments of \$500; from \$10,000, increments of \$1000; from \$30,000 (and above), increments at the auctioneer's discretion.

3. Buyer's Premium: All bidders will be charged a buyer's premium of 28% (all forms of bidding including in-house, phone, absentee and internet bidding) of the hammer price on any lot up to and including \$500,000; 23% of any amount between \$500,001 and above. The total sales price of an item will be calculated as follows: the hammer price of the item, plus the buyer's premium, plus sales tax, unless exempt (see "Sales Tax" below), plus 3% fee if payment is made via Paypal or credit card.

4. Sales Tax: No sales tax will be charged if the successful bidder provides PBMA with a copy of a valid "Resale Form" or "Tax Exempt Certificate."

- **SALES TAX NOTICE TO FLORIDA BIDDERS:**

Sales tax will be added to all purchases at the rate of 7% (Palm Beach County sales tax rate) of the hammer price plus the buyer's premium, see exception below*.

- **SALES TAX NOTICE TO USA BIDDERS:**

The June 2018 U.S. Supreme Court decision *South Dakota v. Wayfair, Inc.* enabled state governments to impose sales tax on items purchased from remote sellers. Like other USA businesses who ship nationwide, Palm Beach Modern Auctions is subject to this legislation, see exception below*.

For this reason, your purchases in this auction may be subject to sales tax even if shipped to a destination outside of Florida. The tax rate and threshold at which we are required to collect and remit sales tax (point of 'economic nexus') is determined by the destination state/county/city. For details on the way this may impact you, we suggest research via your local government or tax professional, see exception below*.

- **AUTOMATIC NEXUS: NEW YORK, CALIFORNIA & TEXAS** will be subject to their state's sales tax, which will be reflected on the invoice. Please note other states may become a nexus based on bidding activity and invoices will include sales tax as required by law, see exception below*.

* **EXEMPTION BY RESALE CERTIFICATE:** Bidders with a current, valid resale certificate are encouraged to email a copy to info@modernauctions.com prior to the auction date.

5. Payment: Payment must be made within seven (7) days following the auction. Payment may be made by wire transfer, check, cashier's check, money order, Visa, Mastercard, Amex, Discover, or Paypal, however, invoices exceeding \$10,000.00 must be paid by cash, check, or wire transfer. PBMA will not accept credit card payments for invoices above this amount. Bidders paying by credit card or Paypal will be charged an additional 3% on the total price. Additionally, international bidders must pay by wire transfer; no other form of payment transfer will be accepted from international bidders or buyers. Buyers paying by credit card must sign and date the "Auction Terms and Conditions Credit Card Authorization Form" and submit same to PBMA via fax or email. Buyer consents to the completion of Buyer's credit card transaction without Buyer's signature. Checks should be made payable to "Palm Beach Modern Auctions" and mailed or delivered to PBMA. If a buyer fails to make timely payment as required in this paragraph, PBMA shall be entitled, in its sole discretion, to exercise any remedies legally available to PBMA, including, but not limited to, the following: (a) filing suit (b) cancellation of the sale of the property to the non-paying buyer, including the sale of any other property to the same buyer; (c) reselling the property at public or private sale, with or without reserve; (d) retention of any amounts already paid by the buyer for the unpaid items, as compensatory damages for the lost opportunity to sell the items at full hammer price; (e) rejection of any bids of the buyer at future auctions; (f) setting off any amounts owed by PBMA to the buyer; (g) releasing buyer's name and contact information to the consignor; and (h) taking any other action PBMA deems necessary or appropriate under the circumstances.

6. Lot Descriptions / Inspection of Merchandise: PBMA has described each lot as accurately as possible, and included detailed photographs as part of the condition statement, however, all property is sold "AS IS" with no representation or warranty of any kind from PBMA or the consignor. Measurements are approximate and are provided mainly for shipping purposes. Buyers are responsible for satisfying themselves as to the condition of, and all other matters concerning, the property, including but not limited to its authenticity and provenance, thus prospective buyers are advised to personally examine any property on which they intend to bid prior to the auction. Prospective buyers may view lots at PBMA's auction location during the hours advertised. Additionally, prospective buyers should call, e-mail, or fax PBMA with any questions prior to placing their bids and, as a courtesy, condition reports for any lot are available from PBMA prior to the sale. PBMA is not be liable for any errors or omissions contained in any catalog, report, inquiry response or in any other description of the Property. Any statements made by PBMA, including all statements in any report, catalog or inquiry response, are

intended as statements of opinion only and are not to be relied upon as statements of fact and do not constitute representations or warranties of any kind.

PBMA MAKES NO GUARANTEES, REPRESENTATIONS OR WARRANTIES OF ANY KIND WITH RESPECT TO THE PROPERTY, ITS AUTHENTICITY, AUTHORSHIP, PROVENANCE, CONDITION, VALUE OR OTHERWISE. PBMA ASSUMES NO RISK, LIABILITY OR RESPONSIBILITY FOR THE AUTHENTICITY OF THE AUTHORSHIP OF ANY LOT OR PROPERTY. PBMA HEREBY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY AND WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE.

- 7. Foundations and Experts:** Due to the lack of industry standards in the art and furniture industry, PBMA does not vet or endorse any foundation or expert. Bidders are responsible for conducting their own due diligence into all foundations and experts and are advised to bid accordingly.
- 8. Estimates:** Estimates are provided only as a guide for prospective buyers. PBMA makes no representations or warranties regarding the value or anticipated selling price of any Property.
- 9. Reserve Price:** Some lots offered are subject to a reserve. A reserve is a confidential minimum price below which the lot will not be sold. PBMA will act to protect the reserve by bidding through the auctioneer. The auctioneer may open the bidding on any lot below the reserve by placing a bid on behalf of the Seller and may continue to bid on behalf of the Seller up to the amount of the reserve.
- 10. Withdrawals:** PBMA reserves the right to withdraw any item from the auction for any reason and shall have no liability whatsoever for such withdrawal.
- 11. Shipping/Pick-up/Storage:** PBMA highly recommends that bidders obtain shipping quotes prior to bidding. If you would like to obtain a shipping quote prior to the auction, please contact PBMA by phone or email for a list of shippers, or contact your own shipper. PBMA provides shipping lists only as a service to its clients and any such list should not be considered an endorsement of any shipping company. Generally, PBMA does not pack or ship items for insurance reasons. Palm Beach Modern Auctions does not install, disassemble or remove complex/electrified items (i.e. chandeliers). When selecting a shipper, please ensure they are capable of handling this. Final arrangements for shipping, and all costs associated with shipping, are the responsibility of the buyer. Any agreement for shipping is a contract between the buyer and the shipper; PBMA is not a party to any such contract and expressly disclaims any responsibility thereunder. No items will be released for shipping until PBMA receives payment in full and all payments have cleared. Thereafter, items may be picked up at PBMA's exhibition facility Monday through Friday from 10:00 A.M. – 4:00 P.M. by the winning bidders or their shippers. Please call PBMA the day before you intend to pick-up any item. If a shipper is picking up an item, please send PBMA an e-mail confirming the name of the shipper and the property to be released into the shipper's possession, and providing PBMA permission to release the property to your shipper. All winning lots must be picked up within thirty (30) days following the close of the auction. After this time, each lot will become subject to storage fees of not less than \$5.00 per day. PBMA has no duty to store any lot indefinitely. After ninety (90) days following the close of the auction, any lot which is not picked up will be deemed abandoned by the buyer and will become the property of PBMA and may be disposed of by PBMA, in any manner it chooses, without notice and without recourse. You authorize PBMA to discard or sell any abandoned property and to keep any proceeds from the sale of abandoned property. You hereby release PBMA of and from any claims related to such abandoned property (including without limitation claims for purchase price refunds, possession of such lot or other damages or losses). You acknowledge and agree that PBMA is not responsible for damage or loss that occurs to abandoned property and that PBMA is not responsible for insuring abandoned property after the ninety (90) day retrieval period. You agree that this remedy is reasonable considering the costs PBMA would have to incur to continue to store and process purchased lots after an auction.
- 12. Rescission of Sale:** PBMA may, for any reason and in its sole discretion, rescind the sale. Upon notice of PBMA's election to rescind a sale, the buyer will promptly return the property to PBMA, at which time the buyer will be refunded the hammer price and the buyer's premium paid to PBMA for the property. This refund will constitute the buyer's sole remedy against PBMA and/or the consignor in the case of a rescission of sale. Buyers have 25 days from the date of the Auction to notify PBMA, in writing, of any issues with the Property, after which PBMA shall consider the issues and decide, in its sole discretion, how to proceed. PBMA has no obligation to proceed in any specific way. Additionally, Buyer expressly agrees that the failure to notify PBMA, in writing, within 25 days of any issues or concerns constitutes a waiver of any claims related thereto.
- 13. Entire Agreement:** This Agreement sets forth the entire agreement between the Parties with respect to the subject matter referenced herein and shall supersede any and all prior agreements or understandings, whether written or oral, between the Parties, except as otherwise specified in this Agreement. You expressly agree that you are not relying on any prior statements or representations, whether oral or in writing, from PBMA, including any made related to the condition, authenticity, authorship or provenance of the auction items.
- 14. Severability:** If any provision, clause, phrase, words or word in this Agreement is declared illegal or unenforceable and if the provision, clause, phrase, words or word cannot be modified to be enforceable, then the illegal or unenforceable provision, clause, phrase, words or word shall immediately drop out of the Agreement (to the narrowest extent possible) and become null and void, leaving the remainder of this Agreement in full force and effect.
- 15. Governing Law:** This Agreement shall be governed and construed in accordance with the laws of the State of Florida and, by registering for and bidding in the auction (whether personally, by telephone or by agent), the buyer agrees that the sole and exclusive venue for any litigation relating to or arising out of this Agreement or the auction shall be in the State Courts located in Palm Beach County, Florida.
- 16. Attorneys' Fees:** In any action directly or indirectly arising from or in connection with this Agreement and/or the Auction, the prevailing party shall be entitled to recover its reasonable attorneys' fees and taxable costs from the non-prevailing party. These enforcement rights shall be cumulative with, and not successive or exclusive of, any other legal remedies which may be available to the Parties to this Agreement.