

## **Smyth Jewelers Online Auction House Terms & Conditions**

### Conditions of Sale

These Conditions of Sale set out the terms upon which Smyth Jewelers, a dba of Albert Smyth Company LLC (“we,” “us,” or “our”) sells property by lot in this catalogue. You agree to be bound by these terms by registering to bid and/or by bidding in our auction.

### A. BEFORE THE AUCTION

#### 1. LOT DESCRIPTIONS AND WARRANTIES

Our description of a lot, any statement of a lot’s condition, and any other oral or written statement about a lot—such as its nature, condition, artist, period, materials, dimensions, weight, exhibition or publication history, or provenance— are our opinion and shall not to be relied upon by you as a statement of fact. Except for the limited authenticity warranty contained in paragraphs E and F below, we do not provide any guarantee of our description or the nature of a lot.

#### 2. CONDITION

The physical condition of lots in our auctions can vary due to age, normal wear and tear, previous damage, and restoration/repair. All lots are sold “AS IS,” in the condition they are in at the time of the auction, and we make no representation or warranty and assume no liability of any kind as to a lot’s condition. Any reference to condition in a catalogue description or a condition report shall not amount to a full accounting of condition and may not include all faults, inherent defects, restoration, alteration, or adaptation. Likewise, images in our catalogue may not depict a lot accurately, as colors and shades may appear different in print or on screen than on physical inspection. We do our best to represent our lots accurately, but we are not responsible for providing you with a description of a lot’s condition in the catalogue or in a condition report.

#### 3. ESTIMATES

Estimates of a lot account for the condition, rarity, quality, and provenance of the object and are based upon prices realized for similar objects in past auctions. Neither you nor anyone else may rely on our estimates as a prediction or guarantee of the actual selling price of a lot or its value for any other purpose. Estimates do not include the buyer’s premium, any applicable taxes, and any other applicable charges.

#### 4. WITHDRAWAL

We may, in our sole discretion, withdraw a lot from auction at any time prior to or during the sale and shall have no liability to you for our decision to withdraw.

#### B. REGISTERING TO BID

##### 1. GENERAL

We reserve the right to reject any bid. By participating in the sale, you represent and warrant that:

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##### 2. NEW BIDDERS

New bidders must register and be approved by our staff to participate in an auction. All registrations are subject to approval, denial, or removing approval at our discretion.

##### 3. BIDDING FOR ANOTHER PERSON

If you are bidding as an agent on behalf of another person, your principal must be a registered bidder and must provide us with written authorization allowing you to bid. You, as the agent, shall accept personal liability to pay the purchase price and all other sums due unless we have agreed in writing before the auction that you are acting as an agent on behalf of your principal and that we will only seek payment from your principal.

#### C. DURING THE AUCTION

##### 1. BIDDING IN THE AUCTION

(a) Bids may only be submitted on our website between the dates and times specified in the lot's description. Your bid is submitted once you place and confirm your bid amount. You agree that a bid is final once it is placed and that you may never amend or revoke your bid. You are fully responsible for any errors you make in bidding. Bidding generally opens at or below the low estimate and increases in steps (bidding increments) to be determined in Smyth Jewelers sole discretion.

## 2. AUCTIONEER'S DISCRETION

The auctioneer shall have absolute discretion to (a) admit a bidder into or remove a bidder from the saleroom or online auction; (b) accept or refuse any bid; (c) change the order of the lots in the auction; (d) move the bidding backward or forward; (e) withdraw any lot from the auction; (f) divide any lot or combine any two or more lots; (g) reopen or continue the bidding even after the hammer has fallen; and (h) continue the bidding, determine the successful bidder, cancel the sale of the lot, or reoffer and resell any lot in the event that there is an error or dispute related to bidding or the application of the reserve, whether during or after the auction. You must provide us with written notice within three (3) business days of the date of the auction if you believe that the auctioneer has accepted the successful bid in error. The auctioneer will consider the claim and decide in good faith if the sale of the lot is final, whether he/she will cancel the sale of the lot, or whether he/she will reoffer and resell the lot. The auctioneer's decision in exercise of this discretion is final. This paragraph does not in any way affect our ability to cancel the sale of a lot under other applicable provisions of these Conditions of Sale, including the rights of cancellation set forth in sections D(6) and G(1).

## 3. SUCCESSFUL BIDS AND INVOICES

Subject to paragraph C(2), the contract of sale between Smyth Jewelers and the successful bidder is formed when the final bid is accepted and the auctioneer's hammer strikes. The successful bid price is the hammer price, and we will issue an invoice only to the registered bidder who made the successful bid. While we send out invoices by mail and/or email after the auction, we shall not be responsible for telling you whether your bid was successful. You should contact us immediately after the auction to find out the success of your bid in order to avoid having the sale canceled. Please note that Smyth Jewelers will not accept payments for purchased lots from any party other than the purchaser, unless otherwise agreed between the purchaser and Smyth Jewelers prior to the sale.

## D. AFTER THE AUCTION

### 1. THE BUYER'S PREMIUM

In addition to the hammer price, the successful bidder agrees to pay us a buyer's premium on the hammer price of each lot sold. On all lots except for those in Coins, Medals & Banknotes auctions we charge twenty-seven percent (27%) of the hammer price. For all lots offered in Coins, Medals & Banknotes we charge a buyer's premium of twenty-one percent (21%) of the hammer price.

## 2. TAXES

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 hammer price, the buyer's premium, and/or any other charges related to the lot. A sales or use tax is dependent upon a number of factors, including, but not limited to, our volume of sale and the place of delivery of the lot, regardless of the nationality or citizenship of the successful bidder. The applicable sales tax rate will be determined based upon the state, county, or locale to which the lot will be shipped or where it is picked-up in person. We collect sales tax in states where legally required.

## 3. MAKING PAYMENT

(a) Immediately following the auction, you must pay the purchase price, consisting of the hammer price, plus the buyer's premium, plus any applicable duties and sales, use, or other applicable taxes. Payment is due no later than by the end of the seventh (7th) calendar day following the date of the auction, which we refer to as the due date.

(b) We will only accept payment from the registered successful bidder. Once issued, we cannot change the buyer's name on an invoice or reissue the invoice in a different name.

(c) You must pay for lots in US dollars in one of the following ways:

(i) Wire transfer.

(ii) Credit card: Credit card payments may not exceed \$25,000 and a convenience fee of 3% will be added to each credit card payment.

## 4. TRANSFERRING OWNERSHIP TO YOU

You will not own the lot and title will not pass to you until we have received full payment in good funds of the purchase price, even in circumstances where we have released the lot to you.

#### 5. TRANSFERRING RISK TO YOU

Unless we have agreed otherwise with you, the risk in and responsibility for the lot will transfer to you from whichever is the earlier of the following: (a) when you collect the lot; or (b) the end of the thirtieth (30th) day following the date of the auction.

#### 6. YOUR FAILURE TO PAY

If you fail to pay us the purchase price in full in good funds by the due date, we will be entitled to do one or more of the following (as well as enforce any other rights and remedies we have by law) at our sole discretion:

(a) We can cancel the sale of the lot and sell the lot again, publicly or privately, on such terms as we believe appropriate, in which case you must pay us any shortfall between the amount you owe us and the resale price, plus all costs, expenses, losses, damages, and legal fees we incur due to the cancellation.

(b) We can hold you legally responsible for the amount you owe us and bring legal proceedings against you to recover the amount owed by you, plus other losses, interest, legal fees, and costs as allowed by law.

(c) We can reject any bids made by or on behalf of you in future auctions or require you to provide us with a deposit before accepting any bids.

(d) We can take any other action we deem necessary or appropriate.

#### 7. SHIPPING, COLLECTION, AND STORAGE

(a) Smyth Jewelers will ship all purchased lots to you, unless other prior arrangements are made with us. In which case, you must collect purchased lots within thirty (30) days of the auction.

(b) In accordance with applicable state law, if you have paid for the lot in full but you do not collect the lot within the time specified by the law of the state where the auction takes place, we may charge you state sales tax for the lot.

(c) Nothing in this paragraph is intended to limit our rights under paragraph D(6).

## E. WARRANTIES

### 1. OUR LIMITED AUTHENTICITY WARRANTY

Our limited authenticity warranty, which lasts for three (3) months from an auction, is that the lots in our sales are authentic as defined in paragraph H, below. You must notify Smyth Jewelers regarding concerns of authenticity in writing within three (3) months of the date of an auction. Following receipt of that written notification, subject to the terms below, Smyth Jewelers will refund the purchase price paid by the client. The terms of this limited authenticity warranty are as follows:

(a) Any and all services normally provided to in-store Smyth Jewelers customers at no charge are subject to being charged at full price at our discretion.

(b) It will be honored for claims notified in writing within a period of three (3) months from an auction. After such time, we will not be obligated to honor the limited authenticity warranty.

(c) It does not apply to any reference to time period. All references to time period that a piece is made are only in reference to the style of the piece unless otherwise specified.

(d) It does not apply where scholarship has developed since the auction, leading to a change in generally accepted opinion. Further, it does not apply if the Heading either matched the generally accepted opinion of experts at the date of the auction or drew attention to any conflict of opinion.

(e) It does not apply if the lot can only be shown not to be authentic by a scientific process that, on the date we published the catalogue, was not available or generally accepted for use, was unreasonably expensive or impractical, or was likely to have damaged the lot.

(f) Its benefit is only available to the original buyer shown on the invoice for the lot, issued at the time of the sale, and only if, on the date of the notice of claim, the original buyer is the full owner of the lot and the lot is free from any claim, interest, or restriction by anyone else. The benefit of this limited authenticity warranty may not be transferred by the original buyer to anyone else.

(g) In order to make a claim under the limited authenticity warranty, you must

(i) give us written notice of your claim within three (3) months from an auction; (ii) at our option, pay for and provide us with the written opinions of two recognized experts in the field, mutually agreed upon by you and us, confirming that the lot is not authentic (we reserve the right to obtain additional opinions at our expense); and (iii) return the lot at your expense to the saleroom from which you bought it in the condition it was in at the time of sale.

(h) Your only right under this limited authenticity warranty is to cancel the sale and receive a refund of the purchase price paid 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, other damages, or expenses.

(i) No employee or agent of Smyth Jewelers is authorized to make a representation or provide additional information, whether orally or in writing, that amends the limited authenticity warranty or creates an additional warranty with respect to a lot. Any such representation, other information, or additional warranty shall be null and void.

#### 4. JEWELRY

(a) Colored gemstones (such as rubies, sapphires, and emeralds) may have been treated to improve their appearance through methods such as heating and/or various clarity enhancements. These methods are considered common by the international jewelry trade but may make a gemstone more fragile and/or cause the gemstone to require special care over time. If we do have information of a gemstone being treated, this will be noted in the description of the lot.

(b) We do have GIA certified gemologists on staff to identify gemstones. However, we do not obtain a gemological report for every gemstone sold in our auctions. When we do get gemological reports from internationally accepted gemological laboratories, such reports are described in the catalogue. Reports from American gemological laboratories describe any improvement or treatment to the gemstone.

Reports from European gemological laboratories describe any improvement or treatment only if we request that they do so, but they do confirm when no improvement or treatment has been made. Because of differences in approach and technology, laboratories may not agree on whether a gemstone has been treated, the amount of treatment, or whether that treatment is permanent. The gemological laboratories only report on the improvements or treatments known to them at the date they make the report.

(c) For jewelry sales, estimates are based on the information in any gemological report. If no report is available, assume that the gemstones may have been treated or enhanced.

## 5. WATCHES

(a) Smyth Jewelers does have a watchmaker on staff that may make repairs to bring watches to working condition prior to the beginning of an auction.

(b) Almost all clocks and watches are repaired in their lifetime and may include parts that are not original. We do not give a warranty that any individual component part of any watch is authentic. Watchbands described as “associated” are not part of the original watch and may not be authentic. Clocks may be sold without pendulums, weights, or keys.

(c) As watches often have very fine and complex mechanisms, you are responsible for any general service, change of battery, or further repair work that may be necessary. We do not give a warranty that any watch will stay in good working order. However, our watchmaker does bring all watches to good working condition prior to the beginning of an auction, unless otherwise specified. Boxes and certificates are not available unless described in the catalogue.

## 6. YOUR WARRANTIES

You warrant to us that (a) the funds you use for payment are not connected with any criminal activity, including tax evasion, and neither are you under investigation, nor have you been charged with or convicted of money laundering, terrorist activities, or other crimes; (b) if and when you are bidding on behalf of another person, (i) you have conducted appropriate customer due diligence on the ultimate buyer(s) of the lot(s) in accordance with all applicable anti-money laundering and sanctions laws, you consent to us relying on this due diligence, you will retain for a period of not less than five (5) years the documentation evidencing the due diligence, and you will make such documentation promptly available for immediate inspection by an independent third-party auditor upon our written request to do so; (ii) the arrangements between you and the ultimate buyer(s) in relation to the lot or otherwise do not, in



whole or in part, facilitate tax crimes; (iii) you do not know, and have no reason to suspect, that the funds used for payment are connected with or the proceeds of any criminal activity, including tax evasion, or that the ultimate buyer(s) are under investigation for, or have been charged with or convicted of, money laundering, terrorist activities, or other crimes.

## F. OUR LIABILITY TO YOU

(a) We give no warranty in relation to any statement made, or information given, by us or our representatives or employees about any lot other than as set out in the limited authenticity warranty, and as far as we are allowed by law, all warranties and other terms that may be added to this agreement by law are excluded.

(b) We are not responsible to you for any reason (whether for breaking this agreement or for any other matter relating to your purchase of, or bid for, any lot) other than in the event of fraud or fraudulent misrepresentation by us, or other than as expressly set out in these Conditions of Sale.

(c) We have no responsibility to any person other than a buyer in connection with the purchase of any lot.

(d) If, despite the terms in paragraphs F(a)–(c) or E(1) above, we are found to be liable to you for any reason, we shall not have to pay more than the purchase price paid by you to us. We will not be responsible to you for any reason for loss of profits or business, loss of opportunity or value, expected savings or interest, costs, damages, or expenses.

## G. OTHER TERMS

### 1. OUR ABILITY TO CANCEL

In addition to the other rights of cancellation contained herein, we can cancel a sale of a lot if (i) any of your warranties in paragraph E(4) are not correct; (ii) we reasonably believe that completing the transaction is, or may be, unlawful; or (iii) we reasonably believe that the sale places us under any liability to anyone else or may damage our reputation.

### 2. COPYRIGHT

We own the copyright to all images, illustrations, and written material produced by or for us relating to a lot, including the contents of our catalogues, unless otherwise noted therein. You cannot use them without our prior written permission. We make no representation and offer no guarantee that the buyer of a lot will gain any copyright or other reproduction rights.

### 3. ENFORCING THIS AGREEMENT

If a court finds that any part of this agreement is invalid, illegal, or impossible to enforce, that part of the agreement will be treated as being deleted, and the rest of this agreement will not be affected.

### 4. TRANSFERRING YOUR RIGHTS AND RESPONSIBILITIES

You may not grant a security interest over or transfer your rights or responsibilities under these terms unless we have given our written permission. This agreement will be binding on your successors or estate and anyone who takes over your rights and responsibilities.

### 5. PERSONAL INFORMATION

We will hold and process your personal information in line with our privacy policy at [www.smythjewelers.com/pages/privacy-policy](http://www.smythjewelers.com/pages/privacy-policy).

### 6. WAIVER

No failure or delay to exercise any right or remedy contained herein shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

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