

# EARLY AMERICAN HISTORY AUCTIONS • TERMS & CONDITIONS OF SALE

BY PARTICIPATING IN THE AUCTION EACH BIDDER ACKNOWLEDGES THAT THE BIDDER HAS READ AND UNDERSTANDS AND AGREES TO THESE TERMS & CONDITIONS OF SALE. (PLEASE REFER TO SECTION 12 "DEFINITIONS")

## 1. General Terms.

All Bidder(s) at the Auction acknowledge and agree that the following General Terms shall apply at all times to the conduct of the Auction:

- a. The Auction is by public mail/phone/email/internet/and/or fax. Absentee Bid Closing Date: Friday, September 4, 2020 at 5:00 p.m. Pacific Time. Absentee Bids will be executed over EarlyAmerican.com on Saturday, September 5, 2020 beginning at 9:00 a.m. Pacific Time. The Auction is conducted in accordance with the regulations of the State of California and the City of San Diego.
- b. Any Bid in the Auction automatically constitutes acceptance by the Bidder, and is deemed to incorporate by reference these General Terms and Conditions.
- c. A Purchaser's Premium of twenty percent (20%) on each individual Lot will be automatically added to all purchase(s) made by successful Bidder(s); (or twenty-five percent (25%) of the "Hammer Price" if a given Bid is placed through any other selected outside auction service including Invaluable.com and LiveAuctioneers.com) it being understood that EAHA may waive such fee for reacquisition(s) by Consignor(s).
- d. The Consignor(s) may Bid and purchase Lot(s) in the Auction and Consignor(s) that Bid(s) on his/hers/its own Lot(s) in the Auction may pay a different fee than the Purchaser's Premium charged to all other(s).
- e. If the Consignor shall re-purchase a Lot that is either returned to the Consignor or otherwise dealt with or disposed of in accordance with the Consignor's direction, EAHA reserves the right to make appropriate adjustments.
- f. EAHA reserves the right to include in the Auction its own Merchandise and have direct or indirect interests in any of the Lot(s) offered for sale in the Auction.
- g. EAHA may bid for its own account on any given Lot(s) at the Auction.
- h. EAHA may have information about any given Lot(s) that may not be publicly available, and reserves the right to use such information without making disclosure in the Catalog.
- i. All Lot(s) may, at EAHA's sole discretion, carry a Reserve.
- j. All Lot(s) will be sold to the highest Bidder as determined by the Auctioneer.
- k. If any dispute arises of and concerning a given Bid at the Auction, the Auctioneer's decision shall be considered absolute and final.
- l. No "Unlimited" or "Buy" Bid(s) will be accepted by the Auctioneer at the Auction.
- m. Any announcements made on the day of the Auction shall take precedence over any terms that may be contained in the Catalog and/or other announcements and/or documentation.
- n. The Auctioneer reserves the right, without recourse from any Bidder or Consignor, to postpone or delay the Auction, for a reasonable period of time, due to any significant event which, in the sole judgement of the Auctioneer, makes it inadvisable to hold the Auction as scheduled.

## 2. The Bidding Process.

All Bidder(s) in the Auction acknowledge and agree, as a condition to the acceptance of a Bid by the Auctioneer, that:

- a. The Auctioneer may open or accept a Bid on any Lot by placing a Bid on behalf of the Consignor.
- b. The Auction Date printed on the Catalog cover is the last day that bids are accepted through any means, EXCEPT for those bidding through EarlyAmerican.com, Invaluable.com, iCollector.com or LiveAuctioneers.com who are permitted to continue bidding until each Lot is closed on the day following.
- c. The Auctioneer, at his sole and exclusive discretion, may accept or decline a given Bid, and/or challenge any Bid or any increment thereof.
- d. Bids below the Low Estimate, which includes any requested increase(s), will not be reduced.
- e. Bids below fifty percent (50%) of Low Estimate are considered frivolous and will not be accepted.
- f. In the event of a tie, the Lot will be awarded to the bid with the earliest postmark.
- g. All Bid(s) must be for an entire Lot; it being understood that each Lot constitutes a separate sale.
- h. No Lot will be broken up unless otherwise permitted by the Auctioneer, and Lot(s) will be sold in their numbered sequence unless the Auctioneer directs otherwise.
- i. All Merchandise shall be sold in separate Lot(s) to the highest Bidder as determined by the Auctioneer in his sole and exclusive discretion.
- j. If a Lot is awarded to the wrong Bidder due to an administrative error, the highest Bidder will prevail. All Bidders agree to post-Auction corrections without protest or negative feedback.
- k. The Auctioneer shall have the right, at his sole and exclusive discretion, to adjudicate all bidding disputes and shall have the right, to rescind the acceptance of any Bid and/or place a given Lot(s) for re-Auction.
- l. The Auctioneer's decision on all Bid disputes shall be deemed to be binding and final.
- m. If there should be any Material Error in descriptions contained in the Catalog creating a Significant difference from the value paid, a given Lot may be returned by a successful Bidder for Review, but only if prompt written notice is first received by EAHA not later than seventy-two (72) hours of receipt of the Lot(s) by the Bidder; it being understood that any such Lot(s) must be received by EAHA no later than fourteen (14) calendar days after the Auction Date and be in the same condition, in their original, sealed Holders, as when the Lot(s) were first delivered to the Bidder; it being further understood that late remittance(s) constitute just cause by EAHA to revoke any return privilege(s) otherwise available.
- n. Any Lot returned for Review will be at the sole expense of the Buyer, as well as the return expense should the claim be rejected.
- o. EAHA shall not be responsible for any errors in the bidding process, and the Bidder assumes full responsibility to ensure the Bid on a given Lot is correct. Bidders using the Internet acknowledge that due to the bidding process and speed of auctioneer it is possible to be awarded a lot in error. Instances of "awarding" a lot due to missing a bid or some other error may cause an Internet bidder to have their winning bid rescinded by the auctioneer. In such instance, the Internet bidder will be notified of the error and agrees that no further protest, or negative feedback will result on their behalf.
- p. The Auctioneer shall timely announce the Hammer Price for each Lot sold at the Auction.
- q. EAHA reserves the right to withdraw any Lot(s) prior to the Hammer Price being accepted by the Auctioneer.
- r. No Bidder shall have a right to claim any special or consequential damages from EAHA for any reason whatsoever.

## 3. Bidder Registration Required.

All Bidder(s) in the Auction acknowledge and agree, as a condition to the acceptance of a Bid by the Auctioneer, that:

- a. It/he/she duly registered to Bid at the Auction having fully completed and transmitted to EAHA the necessary Auction Bid form(s).
- b. The invoice describing a given Lot by number shall include the Merchandise described in the Catalog by the Cataloguer.

## 4. Prices, Payment and Delivery.

All Bidder(s) in the Auction acknowledge and agree, as a condition to the acceptance of a Bid by the Auctioneer, that:

- a. All payment(s) for Merchandise shall be made by check, money order, cashier's check, bank wire, credit card or in cash (U.S. currency only); Bidder(s) who have not established credit with EAHA must first furnish satisfactory credit references to EAHA and/or deposit at least twenty-five percent (25%) of their total Bid(s) for that Auction, or such other amount(s) as EAHA may, in its sole and absolute discretion, require before such Bid(s) will be accepted; it being understood that deposit(s) submitted will be applied to purchases and any remaining deposit(s) will be refunded upon clearance of funds.
- b. A two percent (2%) Purchaser's Premium Discount will be granted on purchases paid by cash, check or money order.
- c. California Sales Tax of 7.25% will be added to California residents; San Diego County residents add 7.75%.
- d. Payment shall be due immediately upon receipt of notification and payment is deemed delinquent, and in default if not made in good funds in full within fourteen (14) days of the Auction Date.
- e. On cash transaction(s) exceeding Ten Thousand Dollars (\$10,000), a Treasury Form 8300 must be filed.
- f. Lot(s) will not be shipped before all funds are fully received by EAHA.
- g. EAHA reserves the right to extend credit and impose periodic charges on any accounts past due.
- h. The Bidder agrees to report to EAHA any damage or breakage that occurs to Merchandise in the original Holder and packaging during shipment within 3 days of receipt of package. The original packaging MUST be saved, complete and intact, as required by the insuring company. Failure to meet either of these requirements will release EAHA of any further liability or payment for such damages.
- i. Successful Bidder(s) agree to pay reasonable attorney's fees and costs incurred by EAHA to collect on any past due account(s).
- j. Bid(s) will not be accepted from any individual(s) under the age of eighteen (18) years old without a parent or guardian's written consent and express acceptance of these General Terms and Conditions.
- k. If a corporation is the Bidder, the authorized corporate representative must provide EAHA, at the time of registration, with proof in the form of a legal document acceptable to EAHA confirming the representative's express authority to Bid in the Auction for and on behalf of the corporation.
- l. A shipping and handling charge will be added to each invoice to adequately package, ship and fully insure Merchandise. Bidder may request that EAHA increase the insured value of the purchased Merchandise above the successful Bid price for the Merchandise purchased at Auction by making a special arrangements in writing with EAHA, prior to shipment.
- m. All Auction Lot Holders are for short term use and should be changed by the new buyer for proper long term storage.

## 5. Financial Responsibility.

All Bidder(s) in the Auction acknowledge and agree, as a condition to the acceptance of a Bid by the Auctioneer, that:

- a. In the event a successful Bidder fails to make payment when due, EAHA reserves the right, in its sole and exclusive discretion, to rescind the sale or to resell the Lot(s) in a commercially reasonable manner (which may include a public or private sale); it being understood that the Bidder agrees to pay for the reasonable cost of such a sale, together with any incidental costs of sale, attorney's fees and costs, costs of the Cataloguer and any other reasonable charge(s).
- b. EAHA shall have the right to offset any sums due to EAHA, and to make such offset(s) from any past, current, or future consignment(s), or purchase(s) that are in the possession or control of EAHA.
- c. EAHA shall automatically have a security interest to secure any indebtedness due by a successful Bidder(s); it being understood that the Bidder consents to granting EAHA the right to file a Uniform Commercial Code "Financing Statement" to secure EAHA's financial interest.
- d. If a given invoice submitted to the successful Bidder by EAHA is not paid in full when due per the invoice terms, the unpaid balance shall accrue penalty interest at the rate of one-and-one-half percent (1-1/2%) per month until fully paid; it being understood that in such event the penalty interest rate shall exceed the interest permitted by law.
- e. Bidder agrees to pay all reasonable attorney's fees, court costs and collection costs incurred by EAHA in attempting to collect past due invoice(s).
- f. If the successful Bidder for a given Lot(s) consists of one or more person(s) or entity(ies), each shall be jointly and severally liable to EAHA for any payment(s) due for Merchandise purchased.

## 6. Guarantees of Authenticity.

Unless otherwise indicated in the Catalog, the Merchandise offered for sale at the Auction shall be guaranteed by EAHA to be authentic as described in the Catalog, and upon information and belief, is in full compliance with California Assembly Bill 1570; it being understood that SUCH LIMITED GUARANTEE SHALL BE VALID FOR A PERIOD OF THIRTY (30) CALENDAR DAYS ONLY FOLLOWING the Auction Date; it being further understood that after thirty (30) calendar days, no purchased Merchandise can be returned by a successful Bidder(s) under any circumstances; it being further understood that this limited guarantee is extended only to the original Purchaser of record, and to be effective requires the timely presentation of the original sales invoice as well as verification that the item of Merchandise is in the same exact condition as when originally sold. Due to their unique handmade manufacture, Encased Postage Stamps are expressly subject to a thirty (30) day inspection and return period from the sale date after which there is no return whatsoever. After thirty (30) calendar days, should any claim regarding authenticity of the Merchandise arise, at the sole discretion of EAHA, EAHA may elect to assign any rights it has against the original Consignor it may hold. It being understood and agreed that such an assignment, if granted by EAHA, shall not be considered an obligation and EAHA and any of its employees or officers shall be completely removed from any further involvement or responsibility.

## 7. Descriptions and Grading.

- a. **Bidder(s)** acknowledge that all gradings of coin and/or currency **Merchandise** sold in the **Auction** have been determined by independent grading services, and/or by **EAHA**; it being understood that the successful **Bidder(s)** acknowledge that the grading of rare coin(s), currency and other merchandise is subjective and accordingly may differ among independent grading services and among expert numismatists, and that such grading may have a material effect on the ultimate **Auction** value of the **Merchandise**.
- b. **EAHA SHALL NOT BE RESPONSIBLE FOR THE GRADE(S), CLAIMS, OR STATEMENT ASSIGNED BY INDEPENDENT GRADING SERVICES, AND MAKES NO WARRANTY OR REPRESENTATION REGARDING SUCH GRADE(S) OR STATEMENTS WHETHER AN ITEM IS PRE-CERTIFIED OR NOT (SOLD RAW)**. All third party graded lots are sold "AS IS" and are not returnable.
- c. **Lot** description(s) are based solely upon an examination of the coin(s), and are not intended to describe in detail any perceived special characteristics; it being understood that **Bidder(s)** acknowledge that coin grading and perception(s) are inherently subjective.
- d. **EAHA** does not warrant the accuracy of the description(s) and the photograph(s) and the color of photograph(s) contained in the **Catalog**, and that the **Bidder** acknowledges and agrees that the actual **Merchandise** offered for sale may vary in size and/or scale and/or color from any photograph(s) and/or description of the **Lot** in the **Catalog**.
- e. There can be no claim that any verbal description of the **Merchandise**, provided by **EAHA** or any employee, varies and/or alters the description contained in the **Catalog**.
- f. **Conservation and restoration or simply "Conservation"** will be used as an active generic term to indicate professional level, quality methods having been employed to an item at some point, the exact degree and specifics will be indicated as possible. **NO ITEM, HAVING MENTION OF CONSERVATION WILL BE RETURNABLE FOR ANY REASON, 30 DAYS PAST THE DATE OF AUCTION, REGARDLESS OF ANY NEGATIVE COMMENTS, OF ANY TYPE, SUGGESTED BY THIRD PARTY GRADING SERVICES OR OTHERS.**
- g. There can be no claim regarding any item subsequently submitted to any certification service, including any non-certified (Raw) item once the initial inspection and return period has expired.

## 8. Disclaimer and Warranties.

**All Bidders in the Auction acknowledge and agree, as a condition to the acceptance of a Bid by the Auctioneer, that: NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE IS MADE OR IMPLIED ON ANY LOT IN THE CATALOG, AND NO WARRANTY, WHETHER EXPRESS OR IMPLIED, IS MADE WITH RESPECT TO ANY LOT EXCEPT FOR A WARRANTY OF TITLE; IT BEING UNDERSTOOD THAT ALL LOTS OFFERED FOR SALE ARE SOLD ON AN "AS IS" BASIS AND THAT THE PURCHASER CONSEQUENTLY ASSUMES ALL RISKS CONCERNING AND RELATED TO THE GRADING, QUALITY, DESCRIPTION, CONDITION, AUTHENTICITY, AND PROVENANCE OF A GIVEN LOT.**

## 9. Waiver and Release.

**All Bidders in the Auction acknowledge and agree, as a condition to the acceptance of a Bid by the Auctioneer, that: BIDDER EXPRESSLY WAIVES AND RELEASES, AND FOREVER DISCHARGES EAHA FROM ANY AND ALL CLAIMS, RIGHTS, DEMANDS AND CAUSE(S) OF ACTIONS AND SUIT(S), OF WHATEVER KIND OR NATURE, INCLUDING, BUT NOT LIMITED TO, CLAIM(S) BASED UPON AUCTIONEER'S NEGLIGENCE, WHETHER IN LAW OR EQUITY OR WHETHER KNOWN OR UNKNOWN, SUSPECTED OR UNSUSPECTED, WHICH BIDDER MAY CLAIM TO HAVE WITH RESPECT TO AND/OR ARISING OUT OF, OR IN CONNECTION WITH ANY CHALLENGE TO ANY MERCHANDISE PURCHASED AT THE AUCTION, THE AUCTION PROCEDURES, OR THE PURCHASE OF ANY LOT(S); IT BEING THE INTENTION THAT THIS WAIVER AND RELEASE SHALL BE EFFECTIVE AS A BAR TO EACH AND EVERY CLAIM, DEMAND, CAUSE OF ACTION AND/OR SUIT OR CONTROVERSY THAT MAY ARISE HEREUNDER OR BE RELATED TO THE AUCTION ALL BIDDER(S) BY SUBMITTING A BID IN ANY FASHION, SIGNED OR UNSIGNED, IN THE AUCTION KNOWINGLY AND VOLUNTARILY WAIVE ANY AND ALL RIGHTS AND BENEFITS OTHERWISE CONFERRED UPON THE BIDDER BY LAW OR BY THE PROVISION(S) OF SECTION 1542 OF THE CALIFORNIA CIVIL CODE, WHICH READS IN FULL AS FOLLOWS: "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR."**

## 10. Disputes and Arbitration.

**All Bidders in the Auction acknowledge and agree, as a condition to the acceptance of a Bid by the Auctioneer, that:**

- a. If a dispute arises concerning ownership of a given **Lot** that has been **Bid** upon or concerning proceeds of any sale, **EAHA** reserves the right to commence a statutory Inter-Pleader or similar proceeding at the expense of the **Consignor** and successful **Bidder** and any other applicable party, and in such event shall be entitled to its reasonable attorneys' fees and costs.
- b. Neither **EAHA** nor any affiliated or related company shall be responsible for incidental or consequential damages arising out of any failure of these General Terms and Conditions, the **Auction** or the conduct thereof and in no event shall such liability exceed the original **Purchase Price**, premium, or fees paid.
- c. If the **Bidder** fails to comply with one or more of these General Terms and Conditions, then, in addition to all other remedies which it may have at law or in equity, **EAHA** may at its sole option either rescind the sale, retaining all payments made by **Bidder** as liquidated damages; it being recognized that actual damages may be speculative or difficult to compute, or sell a portion or all of the **Lot(s)** held by **EAHA**, in a quantity sufficient in the opinion of **EAHA** to satisfy the indebtedness, plus all accrued charges, and **EAHA** may sell such portion at an **Auction** or private sale conducted by **EAHA** and charge a seller's commission that is commercially reasonable. More than one such sale may take place at the option of **EAHA**. Notice of the sale shall be by U.S.P.S. Mail, Return Receipt Requested to the address utilized on the **Bid Sheet**, **Auction** Consignment and Security Agreement or other last known address by **EAHA**. The

proceeds shall be applied first to the satisfaction of any damages occasioned by **Bidder's** breach, then to any other indebtedness owed to **EAHA**, including without limitation, commissions, handling charges, the expenses of both sales, reasonable attorneys' fees, costs, collection agency fees and costs and any other costs or expenses incurred.

- d. It/he/she shall be liable to **EAHA** if the proceeds of such sale(s) insufficient to cover the indebtedness.
- e. The rights granted to the **Bidder(s)** under the within General Terms and Conditions are personal and apply only to the **Bidder(s)** who initially purchase the **Lot(s)** at the **Auction**, and no rights may be assigned or transferred to any other person or entity, and any attempt to assign or transfer any such rights shall be absolutely void and unenforceable.
- f. **ANY DISPUTE ARISING OUT OF OR RELATED TO THESE GENERAL TERMS AND CONDITIONS, THE AUCTION OR ANY LOT, WITH THE SOLE EXCEPTION OF ACTIONS BY EAHA TO COLLECT THE PURCHASE PRICE AND OTHER DAMAGES, SHALL BE SUBMITTED TO BINDING ARBITRATION WITH THE VENUE OF ALL HEARINGS TO BE IN SAN DIEGO AND PURSUANT TO THE RULES OF THE AMERICAN ARBITRATION ASSOCIATION AND/OR THE PROFESSIONAL NUMISMATICS GUILD ("PNG") AT EAHA'S EXCLUSIVE OPTION.**

## 11. Miscellaneous Terms.

**All Bidders in the Auction acknowledge and agree, as a condition to the acceptance of a Bid by the Auctioneer, that:**

- a. These General Terms and Conditions and the **Auction** shall be construed and enforced in accordance with and governed by the laws of the State of California, regardless of the location of the **Auction**.
- b. These General Terms and Conditions, and the information on **EAHA's** website, constitute the entire Agreement between **EAHA** and the **Bidder(s)** and supersede all other agreements, understandings, warranties and representations of and concerning the **Auction** and subject matter hereof.
- c. **EAHA** will not be responsible for damage due to irradiation by the U.S. Post Office.
- d. If any part of these General Terms and Conditions, or any term or provision of any part is held to be invalid, void, or unenforceable by any court of competent jurisdiction, the remaining portion(s) shall remain and be in full force and effect.
- e. Due to recent legislation, we can no longer ship firearms to New Jersey.

## 12. Definitions

- a. The term "**Absentee Bid**" shall mean all **Bids** placed via any communication including: mail, phone, fax, email and website.
- b. The term "**Auction**" shall mean an auction or consignment sale authorized and conducted under the auspices of "**EAHA**" and under these General Terms and Conditions.
- c. The term "**Auction Date**" shall mean the date the **Auction** is conducted or consignment item is sold.
- d. The term "**Auctioneer**" shall mean an individual(s) duly licensed and/or employee designated by "**EAHA**" to conduct the **Auction** or any **Sale**.
- e. The term "**Bid**" shall mean a bona fide **Bid** made by a "**Bidder**" which is officially acknowledged and accepted by the **Auctioneer** at the **Auction** on the **Auction Date**.
- f. The term "**Bidder**" shall mean an individual or entity that submits a legally binding and bona fide **Bid** to the **Auctioneer** at the **Auction** or any direct buyer either physical or online.
- g. The term "**Catalog**" shall mean the official publication issued by **EAHA** and transmitted to potential **Bidder(s)** in advance of the **Auction**.
- h. The term "**Cataloguer**" shall mean the individual(s) that has described the "**Lot(s)**" contained in the **Catalog** for the **Auction**.
- i. "**Conservation**" the Professional activities including the careful examination as supported by expertise, research and education, in treatment of an item using, "any methods that prove effective in keeping or bringing that property in as close to its original condition as possible, for as long as possible."
- j. The term "**Consignment Agreement**" shall mean the written agreement(s) between "**EAHA**" and a given "**Consignor**" available at "**EAHA's**" offices.
- k. The term "**Consignor**" shall mean the owner of the "**Merchandise**" offered for sale by "**Lot**" at the **Auction**.
- l. The term "**Description**" shall mean the written remarks describing the features of a **Lot** combined with the corresponding photograph of said **Lot**.
- m. The term "**www.EarlyAmerican.com**" shall mean the Internet accessible service provided by **EAHA**.
- n. The term "**EAHA**" shall mean collectively Early American History Auctions, Inc. and/or any subsidiary or affiliated entity and/or Officer(s), Director(s) and/or employee(s) of **EAHA**.
- o. The term "**Fair Market Value**" shall mean the sale price a given **Lot** is expected by the **Cataloguer** to realize at the **Auction** from the **Bidder(s)**.
- p. The term "**Hammer Price**" shall mean the successful **Bid** in the **Auction** as determined by the **Auctioneer** on the **Auction Date**.
- q. The term "**Holder**" shall mean the original frame, container, case or clear plastic sleeve, labeled with the "**Lot**" number, in which the "**Merchandise**" is delivered by the **Consignor** to the successful **Bidder** at an **Auction**.
- r. The term "**Lot(s)**" shall mean the article(s) comprising the **Merchandise** offered for sale at the **Auction**.
- s. The term "**Low Estimate**" shall mean the low range of the sale price that a **Lot** is expected by the **Cataloguer** to realize at the **Auction**.
- t. The term "**Merchandise**" shall mean personal property described in the **Catalog** and offered for sale by **Lot** at the **Auction**.
- u. The term "**Purchaser**" shall mean the successful **Bidder** at the **Auction** on the **Auction Date**.
- v. The term "**Purchaser's Premium**" shall mean the commission that is automatically charged by "**EAHA**" to each successful **Bidder** at the **Auction** in a sum equal to twenty percent (20%) of the "**Hammer Price**" or twenty-five percent (25%) of the "**Hammer Price**" if bids are placed through a third party firm including **Invalidable.com**, **LiveAuctioneers.com** and **iCollector.com**.
- w. The term "**Reserve**" is a confidential price below which the **Auctioneer** will not sell a given **Lot**, and/or will re-purchase on behalf of the **Consignor** or **EAHA**.
- x. The term "**Settlement Date**" shall mean a time forty-five (45) days after the **Auction Date**.