



Bidding Procedures & Conditions of Sale

Definitions

“Agent” or *“IPB’s Agent”* means Knobbe, Martens, Olson & Bear LLP, retained by IPB to assist in the collection of bids from Bidders for all Lots included in the Auction. The Agent will confirm bids received from individual Bidders, and deliver all confirmed bids to the Auctioneer at the end of the Bidding Period. Agent is acting solely as a third party in receiving and tracking sealed bids and does not have any decision making authority regarding who is authorized to bid, or in the final decision on the winning bid. Agent is not associated with the Sellers/Consignors, Buyers, Assignments, or Lots, except that since Agent is a law firm, Agent may currently represent, or may have formerly represented, IPB, Sellers/Consignors and/or Buyers, or may have filed or prosecuted, evaluated or otherwise worked on matters relating to the patents, copyrights, trademarks or other intellectual property that is the subject of an Assignment. Should that be the case, then IPB and each Bidder and Seller/Consignor hereby (i) consents to Agent serving as Agent for the Auction, (ii) confirms that in connection with the Auction, Agent is not representing any Seller/Consignor or Bidder, nor are Agent's actions deemed to be legally adverse to any Bidder or Seller/Consignor, and (iii) waives any conflict of interest that may arise from Agent serving as Agent for the Auction.

“Assignment” means the IP Sale Agreement with recordable assignment documents attached thereto executed by a Seller in advance of the Auction for each Lot to be offered for sale at the Auction.

“Auction” means the Auction as defined in the Bidder Agreement.

“Auction Date” means the Auction Date as defined in the Bidder Agreement.

“Auctioneer” means an auctioneer retained or employed by IPB to conduct the Auction; as well as any auction firm retained by IPB to provide personnel and equipment to facilitate the Auction.

“Associate Auctioneer” means a California bonded auctioneer under the direct supervision of, and sponsored by, IPB to conduct the Auction.

“Bid Sheet” means the form provided as Exhibit E in the Bidder Agreement, which documents the desired sealed bid on a specific Lot.

“Bidder(s)” means the person(s) or entity(ies) who are registered to bid at the Auction, have executed a Bidder Agreement with IPB, and have met any other requirements as determined by IPB.

“Bidder Agreement” means the agreement between IPB and each Bidder in the Auction.

“Bidder Number” means the unique number assigned by IPB to each Bidder. The Bidder will be required to include its Bidder Number on all Bid Sheets submitted to IPB during the Auction.

“Bidding Period” means the Bidding Period as defined in the Bidder Agreement.

“Buyer(s)” means the person(s) or entity(ies) who are Bidders and have made the final winning bid for a Lot, as judged by the Auctioneer at the Auction; or the person(s) or entity(ies) who purchase a Lot at a Later Sale as acknowledged by IPB; or, in the case of a winning Consortium Bid, each Bidder whose Cooperative Bid comprises part of the winning Consortium Bid.

“Catalogue” means the printed, online, and/or electronic auction catalogue made available by IPB prior to the Auction Date, as may be amended from time to time, which includes a description of Lots to be offered for sale at the Auction.

“Consortium Bid” means the aggregate of all Cooperative Bids placed on a given Lot, subject to the potential rejection of some Cooperative Bids. See Cooperative Bidding section for more information.

“Cooperative Bid” means a bid which is combinable with other Cooperative Bids on the same Lot, in the hopes that the resulting Consortium Bid is the highest bid for that Lot.

“Data Room” means an online data room, specific to each Lot and created and maintained by an independent third party, for the purpose of allowing Bidders to perform due diligence on such Lot.

“IPB” means ICAP Patent Brokerage LLC.

“IPB Parties” means ICAP Patent Brokerage LLC, its agents, its affiliates and their agents, the Auctioneer, and the Agent.

“IP” means a patent, patent application, registered trademark, common law trademark, trademark application, registered copyright, unregistered copyright, copyright application, domain name, trade dress or other indicia of origin, together with the goodwill associated therewith, or a license and/or a covenant not to sue, in each case whether exclusive or non-exclusive, relating to any of the foregoing.

“Indemnified Parties” means IPB and its affiliates, the Auctioneer, Associate Auctioneer, Agent, Services Company, and each of their respective agents, directors, officers, employees, partners, contractors and lawyers; and *“Indemnified Party”* means any one of the foregoing.

“Lot” means one or more items of IP and/or Technology grouped together for sale at the Auction as a collective and single lot by a Seller. Lots are auctioned via a sealed bid process at the end of the Bidding Period.

“Mark” means, for a Lot on which a Consortium Bid has been placed, the higher of: (i) the highest traditional bid placed on said Lot, and (ii) that Lot’s Reserve Amount.

“Minimum Cooperative Bid” means, for a given Lot, the lowest acceptable Cooperative Bid, if any.

“Reserve Amount” means the lowest acceptable price for which a Seller/Consignor is willing to sell a Lot for at the Auction.

“Seller/Consignor” means a person or entity which has executed a consignment agreement with IPB, pursuant to which one or more Lots have been consigned to IPB for sale or license at the Auction. The term *“Seller”* may be used interchangeably with the term *“Consignor”*.

“Services Company” means a company retained by IPB to provide services in conduction of the Auction as unlicensed assistants and under the direct supervision of IPB, along with such company’s officers, directors, employees, agents and representatives.

“Technology” means technical information or business information related to exploitation of the IP in a Lot including, for example, production or design specifications, prototypes, trade secrets, and know how, bills of material, sources of supply, customer lists, advertising and promotional materials, advertising plans and other information necessary to or reasonably associated with the business and products utilizing or represented by the IP, or a license and/or a covenant not to sue, in each case whether exclusive or non-exclusive, relating to any of the foregoing.

“Term” means the time period from the effective date of a Bidder Agreement until six (6) months after the latest Auction Date; provided, however, that certain agreements, covenants and obligations shall survive the expiration of the Term.

Bidding Procedures

Registration Requirements

Before any participation in the Auction by a prospective bidder, IPB must receive the Bidder Registration Package:

- (a) a Bidder Agreement;

(b) a completed Bidder Registration Form; and

(c) if Bidder is acting as an agent, a written confirmation of Bidder's authority from the principal in form acceptable to IPB (unless other documentation of relationship acceptable to IPB can be obtained).

Upon Bidder's completion of the Registration Requirements, IPB will provide Bidder with a unique password and appropriate instructions for access to the Data Rooms, if any, for performing due diligence.

Specific Bidder Agreements entered between a Bidder and IPB may vary or supplement these provisions, including, without limitation, with respect to payment of funds into escrow and post auction conditions precedent to closing of sales. In the event of any conflict between these provisions and any such specific Bidder Agreement, the terms of the specific Bidder Agreement shall control with respect to such Bidder, as well as with respect to the purchase of any Lot by such Bidder.

Once a completed Bidder Registration Package has been submitted to IPB and is approved, IPB will deliver to Bidder via email a Bidder Number, which will be used by the Bidder to place bids during the Auction. During the Bidding Period, Bidder may place bids on Lots by completing a Bid Sheet and submitting it to Agent for confirmation.

If multiple bids are received on a single Lot from a single Bidder, the last bid received and confirmed by Agent will be considered the final bid for that Bidder on that specific Lot.

At the end of the Bidding Period, Agent will deliver all bids received on all Lots to the Auctioneer for review. Using the bids received and the Reserve Amounts identified for each Lot, the Auctioneer will determine the winning bidders for each Lot. All winning bidders will be notified by IPB within 3 hours of the end of the Bidding Period.

Cooperative Bidding

Some Lots may permit cooperative bidding. If a Lot permits cooperative bidding it will be noted on the online catalogue listing for that Lot.

Cooperative bidding is a mechanism by which multiple bidders can bid on a Lot anonymously. All Cooperative Bids for a given Lot are aggregated into the Consortium Bid.

To submit a Cooperative Bid, complete a Bid Sheet and clearly check the box labeled "Cooperative Bid? Check if YES:" and submit the Bid Sheet to the Agent in accordance with the instructions.

All Cooperative Bids within a Consortium Bid are ranked, regardless of when the bids were placed, from highest dollar amount (highest rank) to lowest dollar amount (lowest rank). Cooperative Bids of equal dollar amounts share the same rank.

If a Consortium Bid is the highest bid placed on a Lot, the Consortium Bid is compared against the Mark in the following manner: the Cooperative Bids are added together starting with the highest rank and proceeding towards the lowest rank, until the aggregate exceeds the Mark, at which point the addition operation ceases. The final Cooperative Bid added in the course of that operation will necessarily be the bid that boosted the aggregate above the Mark (the “Mark-Surpassing Bid”). All Cooperative Bids with a rank equal to or higher than the Mark-Surpassing Bid are automatically accepted and included in the winning Consortium Bid. Any Cooperative Bids of lower rank than the Mark-Surpassing Bid are automatically rejected and are not a part of the winning Consortium Bid. This helps negate free-rider scenarios where a Bidder places a very low Cooperative Bid. Additionally, a Lot may have a minimum acceptable Cooperative Bid – if so, said minimum will be reflected on that Lot’s Catalogue page.

Immediately following the end of the Bidding Period, IPB will notify any Bidder placing a rejected Cooperative Bid that its Cooperative Bid has been rejected and inform them of the average amount of the accepted Cooperative Bids. Each said Bidder will have 24 hours from that notification to decide whether to increase its bid to match the average amount of the accepted Cooperative Bids. If, and only if, such an increase is made, the new bid will be part of the winning Consortium Bid.

Each Bidder that has placed a bid which comprises part of the final winning Consortium Bid (and hence meets the definition of Buyer hereunder) will be the beneficiary of the non-exclusive license available for review in the data room for the subject Lot, pending timely payment of the ensuing invoice from IPB.

Finally, each Bidder that has placed a bid which comprises part of the final winning Consortium Bid will be asked by IPB, in decreasing order of bid rank, whether said Bidder desires to take title to the subject Lot, subject to the new encumbrances (and any already existing), for \$100. Each Bidder will have 24 hours to respond; if no response is made, IPB will ask the next Bidder in the order. Bidders whose Cooperative Bids shared the same rank will be asked in the chronological order their bids were received by the Agent. Bidders whose Cooperative Bids were initially rejected but who elected to participate by paying the average of the accepted Cooperative Bids will share the lowest rank and be asked in chronological order of their decision to pay the average of the accepted Cooperative Bids. If no Bidder elects to take title to the Lot, the Seller will retain title.

Bidding Disputes

The Auctioneer’s decision as to the winning bid and with respect to any dispute between bidders will be final. The Auctioneer’s records, whether audio, video or written, will be conclusive.

IPB's Rights

The IPB Parties reserve the right, in their sole discretion, to refuse to issue a Bidder Number to anyone. In no event shall the IPB Parties be liable to Bidder or any third party for any direct, indirect or consequential damages arising from any such actions.

The IPB Parties reserve the right, in their sole discretion, to: (a) cancel the Auction for any reason; and/or (b) reject any bid during, before or after the Auction. In no event will the IPB Parties be liable to Bidder for any direct, indirect, or consequential damages arising from any such actions. The IPB Parties reserve the right to withdraw any Lot at any time prior to the end of the Bidding Period for its auction for any reason. IPB will be obligated to inform all Bidders of any withdrawal within five (5) business days of said withdrawal (unless there are fewer than five (5) business days remaining prior to the Auction, in which case as much notice as is reasonably practicable shall be given). No IPB Party shall have any liability, and Bidder shall not be entitled to damages in connection with, any withdrawal of any Lot from the Auction.

The IPB Parties reserve the right to change the Auction Date to any date or place within 30 days after the Auction Date. IPB will provide Bidder notice of any such change. If for any reason the Auction does not occur on the Auction Date or within 30 days thereafter, IPB shall have the right to terminate a Bidder Agreement upon notice to Bidder, without any liability or obligation to Bidder, within 30 days after such notice, and in no event shall the IPB Parties be responsible or liable for any damages or claims of any kind relating to such termination, including, without limitation, any lost profit, appreciation or other claim.

Due Diligence Procedures

There are a variety of ways in which prospective buyers may conduct due diligence related to the Lots listed for sale in the auction.

Catalogue

The auction Catalogue with Lot descriptions may include the following information about the IP listed for sale:

- Patent Numbers/Trademarks/Copyrights/Domain Names
- Seller
- Brief description of property being sold
- Sample forward citation analysis
- Potential licensees

Online Data Room

Bidders will have access to a password-protected online Data Room that will contain detailed information regarding the IP and related items for sale. The IPB Parties make no representation

or warranty that any documentation provided in any Data Room is either complete or accurate, and the IPB Parties shall have no liability in connection therewith.

Due Diligence Calls

Bidders will have the option of arranging private due diligence conference calls with a Seller prior to the Auction. Prior to the Auction, Bidders interested in contacting a seller should arrange such conference calls through IPB to protect anonymity.

These calls will provide the Bidder with the opportunity to interact with the Seller and/or corporate representative and conclude any remaining due diligence.

Bidder Protection

Confidential Due Diligence

Bidders may utilize the online Data Room that will be maintained by an independent third party to assist their due diligence process.

Blind Bidding

All bids will be collected and confirmed by IPB's Agent. Upon the close of the Bidding Period, IPB's Agent will deliver all submitted bids to IPB's Auctioneer to determine the winning bid. During the Bidding Period, IPB will not have access to any bids collected and confirmed by IPB's Agent.

Seller Agreements

Each Seller will enter into a consignment contract. As a condition of participation, each Seller and Bidder agrees not to use the participation of any registered Seller or Bidder as evidence in any action seeking to enforce a patent, copyright or trademark for any purpose.

Conditions of Sale

The Bidder Agreement, Registration Form, and these Bidding Procedures & Conditions of Sale (collectively, the "*Conditions*"), constitute IPB's entire agreement with the Bidder with respect to the Auction. By registering to bid or placing a bid at the Auction, Bidder accepts the Conditions and enters into a legally binding, enforceable contract with IPB. By placing a winning bid on a Lot, Bidder enters into a legally binding, enforceable contract with each Seller on whose Lot(s) Bidder places a winning bid.

Any announcements made by the IPB Parties and distributed to all Bidders, whether written or verbal, shall supersede any prior published information, regardless of whether such announcement is inconsistent with the Conditions; provided that no such announcement shall be deemed to amend the Bidder Agreement. If Bidder continues to participate in the Auction

after such announcement, Bidder will be deemed to have agreed to amendment of the Conditions in accordance with such announcement. Bidder hereby acknowledges and agrees that IPB may have a proprietary interest in one or more Lots or may have other commercial relationships with one or more Sellers or other Bidders or Agent. **Bidder acknowledges and agrees that IPB may loan or advance money to Sellers.**

All descriptions of the Lots, including within the Catalogue, are based upon information provided to IPB by the Sellers. IPB has not undertaken any independent investigation of the information provided to IPB by the Sellers. All written or oral descriptions of any Lot, including but not limited to descriptions in the Catalogue, are statements of opinion and may not be relied upon by Bidder. All Lots are sold "AS IS" and Bidder acknowledges and agrees that no description of any Lot shall be deemed a representation or warranty of or by the IPB Parties with regard to such Lot.

The IPB Parties make no representations or warranties of any kind to Bidder with respect to any Lot, including with respect to title, value, selling price or the validity or scope of the IP in such Lot, or the enforceability of any IP in such Lot.

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Bidder is solely responsible for carrying out any due diligence necessary to satisfy Bidder as to any Lot offered for sale.

Any information contained within the Lot descriptions regarding rights of first refusals, right-to-match, encumbrances, other licensing rights, or any other information which may affect the ultimate value or status of any IP within a Lot, or that otherwise may be of material importance to a potential purchaser is intended to only be representative. Such information may not be complete, accurate, up-to-date or may fail to contain all material facts. Bidders, proxy purchasers, and other third parties may not rely on such information, and must conduct their own investigation of any and all such information through the Data Room, independent due diligence, contact with the Sellers and other sources as they shall deem appropriate.

Any information contained within the Lot descriptions regarding Technology is intended to only be representative of such collateral material and other IP and non-IP assets may be included with the particular Lot. Any list in the Catalogue is not intended to be exhaustive. Bidders must check the Data Rooms for a complete list of all collateral materials to be included for sale with each Lot.

IPB may have requested one or more Sellers to provide documents and related information relevant to each such Seller's Lots that, in such Seller's view, are appropriate for due diligence

by Bidder. Such documents and information received by IPB from such Seller may be made available in the Data Rooms. The IPB Parties make no representation or warranty that any documentation provided in any Data Room is either complete or accurate, and the IPB Parties shall have no liability in connection therewith.

IPB will use commercially reasonable efforts to facilitate individual, pre-arranged telephonic meetings between Bidder and any Seller for due diligence purposes before the Auction. IPB shall have no obligation to Bidder in conjunction with Bidder's performance of due diligence of any Lots.

IPB has relied solely on the information provided by the Seller, has not conducted any due diligence, shall not be obligated to conduct any due diligence and has not verified the accuracy of any documents or information provided by the Seller. THE IPB PARTIES EXPRESSLY DISCLAIM, AND BIDDER IS NOT RELYING ON IPB FOR ANY REPRESENTATION OR WARRANTY REGARDING ANY LOT, INCLUDING THE VALIDITY, ENFORCEABILITY, SCOPE, OR EFFECT OF, OR ANY PROVISION IN, ANY COVENANT. BIDDER ASSUMES ALL RISK ASSOCIATED WITH ITS PURCHASE OF ANY LOT, INCLUDING FAILURE TO CONDUCT ITS OWN DUE DILIGENCE.

Unless otherwise specified by IPB or by announcement at the Auction, all Lots are subject to a Reserve Amount set by the Seller. If, at the close of bidding, the highest bid is less than the Reserve Amount, the Lot will be withdrawn and not sold.

No Lot will be accepted for auction unless the Seller has executed an Assignment. A copy of each Seller's Assignment will be available in the Data Room associated with that Seller's Lot. Bidder is responsible for reviewing the terms and conditions of the Seller's Assignment with respect to any Lot on which Bidder wishes to bid. SELLER'S ASSIGNMENT MAY CONTAIN IMPORTANT ADDITIONAL CONDITIONS OF SALE (E.G., RESERVATION OF A NON-EXCLUSIVE LICENSE, ETC.). BIDDER, AS PART OF ITS DUE DILIGENCE, SHOULD REVIEW THE SPECIFIC SELLER'S ASSIGNMENT FOR THE LOT IN WHICH IT IS INTERESTED IN BIDDING.

A contract of sale between winning Bidder (i.e. Buyer) and Seller will exist as to a Lot upon the identification of the winning bid by the Auctioneer. Subject only to Buyer's compliance with the Conditions and the specific payment obligations, title to the Lot will pass to Buyer upon the identification of the winning bid by the Auctioneer. Buyer hereby agrees to assume all responsibility for the Lot at that time. All sales are final.

The IPB Parties are not party to the contract between Seller and Buyer and will not be liable for any breach of that contract. The IPB Parties will not be liable for any expiration, cancellation, termination or other impairment to or loss of any Lot (or the legal rights therein) either before or after title passes to Buyer.

Upon the identification of the winning bid by the Auctioneer, Buyer is obligated to pay to IPB the bid amount plus a 10% premium in addition to any applicable taxes or duties. All payments must be by certified bank check, cashier's check or wire transfer. Specific payment instructions will be provided to the Buyer at the Auction.

IPB may impose 18% interest per annum, or the maximum allowed by law, on any late payment. No documents evidencing transfer of title of any Lot will be released to Buyer until IPB has received full payment for all Lots purchased by Buyer in good, cleared funds.

Upon receipt of payment in full from Buyer, IPB shall complete the applicable Assignment(s) (or, as applicable, license(s)) for the Lot(s) submitted by Seller pursuant to the applicable Seller's consignment agreement by inserting Buyer's name and the effective date, and will thereafter deliver the completed Assignment(s) to the Buyer.

If Buyer purchases any Lot by making the highest bid and then fails to comply with payment obligations, IPB, in addition to all other available legal remedies, may: (a) hold the defaulting Buyer liable for the purchase price; (b) cancel or rescind the sale; (c) resell the Lot without reserve either privately or at a public auction on seven (7) day's notice to Buyer, and hold Buyer liable for any deficiency between the purchase price (plus all expenses incurred by IPB as a result of Buyer's non-compliance) and the price received upon the resale; or (d) take any other action that IPB, in its sole discretion, deems necessary. If IPB chooses to cancel or rescind the sale, such sale shall be null and void from the time of sale. If Buyer has purchased more than one Lot and IPB receives payments that are less than the total due for all Lots purchased, IPB may apply the received funds toward payment of whichever Lot it determines to be appropriate in its sole discretion.

Each Buyer unconditionally and irrevocably grants and pledges to IPB a security interest in and to all of Buyer's right, title and interest in, to and under any Lot purchased by Buyer, including all IP in the Lot, effective as of the time of sale. Buyer also authorizes IPB to file any documents with the United States Patent and Trademark Office and/or the United States Copyright Office, in each case, without the signature of Buyer to the extent permitted by applicable law. Such security interest shall be deemed to be released upon Buyer's full compliance with all of the Conditions, including full payment for such Lot.

The IPB Parties may, in their sole discretion, cancel or rescind the sale of any Lot if they believe that the offering of such Lot for sale has subjected or may subject any Indemnified Party, the Seller, the Bidder, or any of their successors or privies to any liability, including, without limitation, any reasonable and good faith claim by the purchaser of the Lot, any third-party claim relating to title to the Lot, or any breach of Seller's representations, warranties, covenants or otherwise.

In such event, IPB may refund or credit the purchase price to Buyer. If IPB has already remitted to Seller any proceeds from the sale, IPB will seek a refund from Seller. Buyer agrees to accept from IPB or Seller a refund of all amounts paid as full and final settlement of any and all claims and actions against the IPB Parties and/or Seller. The IPB Parties' right to rescind or cancel the sale shall survive for 90 days after the sale of the subject Lot from Seller to Buyer. The IPB Parties' refusal to cancel or rescind any sale shall not serve as a representation, warranty or guaranty that the offering of the Lot for sale shall not subject any Indemnified Party, the Seller, the Bidder or any of their successors or privies to any liability.

If, at any time during the Term but prior to the Auction Date, Bidder, its successors, assigns, subsidiaries, agents or other affiliated entities, directly or indirectly either purchases, licenses or otherwise in any manner receives the benefit of any Lot from any entity at the Pre-Auction Sale Price (as defined below) (a "*Pre-Auction Transaction*"), IPB shall treat such Pre-Auction Transaction as a sale to Bidder at the Auction. The "*Pre-Auction Sale Price*" means the price for which the Seller is willing to sell a Lot prior to the Auction. Thus, Bidder agrees to pay to IPB an amount equal to 10% of the proceeds or, if no proceeds, 10% of the value to Bidder from such Pre-Auction Transaction, plus any applicable taxes and fees. Bidder further agrees that IPB may seek 15% of such proceeds or value from such person or entity that was a Seller or was/were an affiliate of, a Seller.

If, at any time after the Auction Date and during the Term, Bidder, its successors, assigns, subsidiaries, agents or other affiliated entities, directly or indirectly, either purchases, licenses or otherwise in any manner receives the benefit of any Lot from any entity (a "*Later Sale*"), IPB shall treat such Later Sale as a sale to Bidder at the Auction. Thus, Bidder agrees to pay to IPB an amount equal to 10% of the proceeds or, if no proceeds, 10% of the value to Bidder from such Later Sale, plus any applicable taxes and fees. Bidder further agrees that IPB may seek 15% of such proceeds or value from such person or entity that was a Seller or was/were an affiliate of, a Seller.

Buyer will be responsible for recording the transfer of any IP rights purchased at the Auction with the U.S. Patent and Trademark Office, U.S. Copyright Office, authorized U.S. registrars, and foreign patent, trademark, copyright, and registrar offices around the world, as applicable. With respect to any Lots containing domain names, the applicable Seller will transfer such domain names to Buyer on an "AS IS, WHERE IS" basis, such that the Seller will direct the Buyer to create an account at the registrar through which the domain is currently registered at the time of sale to effect an ownership transfer. Should the Buyer desire to subsequently transfer the domain to a different registrar, Buyer may do so at its own expense.

The Buyer will be responsible for obtaining and paying for any permits or licenses necessary to export from the United States anything purchased at the Auction. The IPB Parties make no representation that any permit or license is needed or can be obtained. By purchasing any Lot, the Buyer agrees to obtain and pay for such permits or licenses prior to such export from the United States.

THE AUCTION IS PROVIDED BY IPB ON AN "AS IS" BASIS, AND IPB DOES NOT MAKE, AND EXPRESSLY DISCLAIMS, ANY AND ALL REPRESENTATIONS OR WARRANTIES WHATSOEVER, WHETHER EXPRESS, IMPLIED OR STATUTORY, WITH RESPECT TO THE AUCTION AND THE LOTS, INCLUDING WARRANTIES WITH RESPECT TO MERCHANTABILITY, OR SUITABILITY OR FITNESS FOR A PARTICULAR PURPOSE (EVEN IF ON NOTICE OF SUCH PURPOSE), TITLE, NON-INFRINGEMENT AND/OR VALIDITY OF ANY LOT OR PORTION THEREOF AND ANY WARRANTIES ARISING FROM COURSE OF DEALING, COURSE OF PERFORMANCE OR CUSTOM OR TRADE USAGE. IPB DOES NOT MAKE ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, THAT THE CONTENTS OF ANY LOT WILL MEET THE BIDDER'S REQUIREMENTS. NO IPB PARTY IS ACTING IN A FIDUCIARY CAPACITY AND IS NOT ASSUMING ANY DUTIES OR OBLIGATIONS OTHER THAN THOSE EXPRESSLY SET FORTH IN EACH BIDDER AGREEMENT OR OTHERWISE ASCRIBED BY LAW.

Bidder agrees, for itself and its affiliates, representatives, successors and permitted assigns, that in no event shall the IPB Parties be liable for, nor shall Bidder seek damages, including any increased, exemplary, consequential, incidental or special damages relating in any way to the Auction including, without limitation, any breach or failure to perform by the IPB Parties, and Bidder hereby waives any and all of the foregoing.

The Auction shall be governed by and construed in accordance with the laws of the State of California, without regard to principles of conflicts of laws. EACH OF THE PARTIES HEREBY IRREVOCABLY WAIVES ALL RIGHTS SUCH PARTY MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT. Any legal action or proceeding arising out of or in connection with the Auction shall be brought in the federal or state courts in Los Angeles County, California.

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