

Auction Conditions for Real-Time-Online Auctions

§ 1 GENERAL

1. These Auction Conditions are published on the website of KARL & FABER. By placing an order or placing a bid, the buyer expressly acknowledges the auction conditions and their validity for the auction.
2. The auction, which is not a public auction within the meaning of Sections 383 III, 474 I 2 German Civil Code (BGB), is prepared, conducted and handled by Karl&Faber Kunstauktionen GmbH (hereinafter referred to as "Karl&Faber"). Karl&Faber generally auctions the artworks as commission agent in its own name for the account of the unnamed consignor. An auctioneer appointed by Karl&Faber will conduct the auction in the name and for the account of Karl&Faber; any claims arising from the auction will be directed exclusively against Karl&Faber and not against the auctioneer.

§ 2 BIDDING AND AUCTION

1. All bidders must provide their name and address in good time before the auction. Bidder numbers will be assigned if necessary. If a bidder wishes to submit bids on behalf of a third party, he/she must inform the auctioneer prior to the start of the auction, stating the name and address of the person represented and submitting a written authorisation. Otherwise, the purchase contract is concluded with the bidder upon acceptance of the bid.
2. The estimated prices listed in Karl&Faber's online catalogue (lower and upper estimates where applicable) are in euros. They serve as an indication of the market value of the auctioned property. The starting price will be determined by the auctioneer and will be increased at Karl&Faber's discretion, usually by 10% of the previous bid in euros. Karl&Faber reserves the right to combine or separate catalogue numbers and, if there is a special reason, to call them up or withdraw them in a different order than that provided for in the online catalogue.
3. Bids can also be made in writing (by letter, fax, scan or via the website of Karl&Faber or other internet platforms such as Lot-tissimo) or by telephone. The relevant registration must always be made using the forms provided by Karl&Faber. Bidding via the Internet (live bidding) is only permitted if this is done via online services and platforms provided or authorised by Karl&Faber. For live bidding or written bidding via the online platforms invaluable and lot-tissimo, fees of 3% of the hammer price plus statutory VAT will be charged, which will be added to the premium in accordance with the auction conditions. The costs for this shall be borne by the bidder. Written or telephone bids will only be accepted if the bidder has applied to Karl&Faber for authorisation at least 24 hours before the start of the auction. The application must name the artwork, stating the catalogue number and catalogue description, and must be signed. Any costs incurred by ambiguities shall be borne by the bidder. Karl&Faber accepts no liability for the processing of written, telephone or online bids. In particular, Karl&Faber is not liable for transmission errors or the establishment and maintenance of telephone or Internet connections. This does not apply if Karl&Faber is responsible for an error due to wilful intent or gross negligence. When using a currency (conversion) calculator (e.g. in the live auction), no liability is assumed for the accuracy of the currency conversion.
4. The bid is accepted if no higher bid (overbid) is submitted after a bid has been called three times. If several persons place the same bid and no higher bid is placed after three calls, the bid that was placed or received first shall be decisive. In individual cases, a bid may be accepted subject to reservation, to which the auctioneer will expressly draw attention. Such a knockdown shall only become effective if Karl&Faber confirms the bid in writing within five weeks of the day of the auction by submitting a corresponding invoice; the bidder shall remain bound by his/her bid for this period. Karl&Faber may withdraw a knockdown within an auction and re-bid the artwork if a higher bid, which was submitted in good time, has been overlooked by mistake and this has been immediately objected to by the bidder or if there is any other doubt about the knockdown. If Karl&Faber exercises this right, the original knockdown becomes invalid. Karl&Faber has the right to bid up to the limit of an artwork for the consignor. Karl&Faber has the right to refuse to accept a bid or to reject a bid if there is a special reason. A special reason exists in particular if a bidder is unknown to Karl&Faber and has not provided security by the start of the auction. If a bid is rejected, the previous bid remains valid. The acceptance of the bid obliges the bidder to accept and pay for the artwork.

5. Written bids are deemed to be bids already submitted in the auction. If several written bids of the same amount are received for one and the same artwork, the bid received first will be accepted if no higher bid has been received or submitted. In the case of the same day of receipt, the lot decides. Each written bid will only be accepted by Karl&Faber for the amount required to outbid any other bid submitted. A written bid, which must be submitted on the form provided for this purpose, must be signed by the bidder and state the price offered for the artwork (excluding premium, artist's Resale Right (ARR) levy and VAT).

§ 3 RIGHT OF CANCELLATION FOR CONSUMERS

1. If you are a consumer, you have a right of cancellation in accordance with the statutory provisions. A consumer is a natural person who submits a purchase offer for a purpose that cannot be attributed to commercial or independent professional activity.
2. At the end of these General Terms and Conditions is a link to the statutory cancellation policy and the cancellation form.
3. If a consumer exercises his/her right of cancellation, he/she must bear the costs of returning the goods.

§ 4 PAYMENT; OBLIGATIONS OF THE BUYER TO COOPERATE IN THE FULFILMENT OF ANTI-MONEY LAUNDERING REGULATIONS

1. The purchase price consists of the hammer price plus premium. In addition, in the case of works by living artists or artists who died less than 70 years ago, a levy of 1.5% of the sum of the hammer price and the net premium plus statutory value added tax shall be charged to compensate for the ARR payable in accordance with Section 26 German Copyright Act (UrhG).
2. As far as VAT is concerned, sales are subject to differential taxation or standard taxation, depending on the consignor's specifications, which are to be made in good time before the invoice is issued.
 - a) Regularly taxed works of art are marked with an "R" after the catalogue number. In these cases, a buyer's premium will be charged per individual property: on a hammer price up to and including 500,000 euros: 27%; on a hammer price over 500,000 euros up to and including 1,500,000 euros for the amount in excess: 21%; on a hammer price over 1,500,000 euros for the amount in excess: 16%. The hammer price, the buyer's premium and any other costs will be subject to statutory VAT (currently 19%) which will be shown separately.
 - b) If Section 25a of the Value Added Tax Act (differential taxation) is applied, the premium and any other costs include the value added tax, which is not shown separately and currently amounts to 19%. The premium then amounts to 32%, 27% and 22%, taking into account the scale listed under Section 3 (2) a). Art objects subject to differential taxation marked with an "N" after the catalogue number originate from a country outside the EU. For such artworks, import sales tax of 7% of the invoice amount will be charged in addition to the premium.
3. The aforementioned rates for VAT and the items to which it applies correspond to the current legal situation and the current practice of the tax authorities. There may be changes in this respect, which must be passed on to the buyer. If buyers residing outside the EU take the auctioned artwork to countries outside the EU themselves, they must provide security in the amount of the statutory VAT. This will be refunded if the buyer presents Karl&Faber with the German customs export and buyer's certificate within one month of receiving the artwork. Any (import) VAT and customs duties incurred abroad shall be borne by the buyer in all cases. Invoices issued during or immediately after the auction are subject to verification.
4. Insofar as the buyer owes reimbursement of costs and/or interest in accordance with these Auction Conditions or the law, Karl&Faber may liquidate these in addition to the amounts specified in Section 3, items 1, 2 a, b, 3. The purchase price is due upon acceptance of the bid. Default of payment shall occur, even in the absence of the buyer, two weeks after acceptance of the bid, but no earlier than one week after the invoice date. From the time of default of payment by the buyer, interest shall accrue on the purchase price at a rate of 1% per month or part thereof, without prejudice to any further claims for damages. Karl&Faber is authorised to provide the consignor with the name and address of the buyer four weeks after the occurrence of default of payment.

5. The buyer may only offset undisputed or legally established claims against Karl&Faber.
6. Non-cash payments are accepted on account of performance. If payment is made in foreign currency, any exchange loss shall be borne by the buyer. All taxes, costs and fees for non-cash payment (including the bank charges charged to Karl&Faber) shall be borne by the buyer, insofar as this is legally permissible and the prohibition of Section 270a BGB does not apply. Karl&Faber is not obliged to hand over the auctioned artwork until all amounts owed by the buyer have been paid in full.
7. Invoice change requests (e.g. address, taxation) can no longer be accepted after the auction.
8. In accordance with legal obligations, Karl&Faber has the right to ask the buyer to present a valid identity card, passport, similar personal document and, if necessary, further information to determine the beneficial owner, as well as to make copies of these for its records and keep them for 30 years. Beneficial owners within the meaning of the Anti-Money Laundering Act (GwG) are natural persons with control or influence over the company. This includes all persons who directly or indirectly hold more than 25% of the capital shares or voting rights in a company or exercise control in a comparable manner. If the bidder is a politically exposed person, the bidder must indicate this. Within the meaning of GwG, politically exposed persons are persons who hold or have held high-ranking public office at international, European or national level in the last 12 months, as well as their close relatives. The bidder undertakes to cooperate in the fulfilment of this legal obligation.

§ 5 COLLECTION AND TRANSPORT; TRANSFER OF RISK; EXPORT LICENCE

1. The buyer must collect his/her purchase immediately, but no later than two weeks after full payment of his/her liabilities, after which he/she shall be in default even without a reminder. The risk of accidental loss or accidental deterioration of the artwork shall pass to the buyer from this point in time, but at the latest when the artwork is handed over to the buyer.
2. Notwithstanding the provisions in Section 4 (1), Karl&Faber shall store and insure the artwork (in the amount of the purchase price) for a period of 1 month from the day of the auction. Accordingly, Karl&Faber has the right, but not the obligation, to store the artwork in the name and for the account of the buyer with an art forwarding company and to have it insured at the buyer's expense. If the buyer wishes the artwork to be transported, he/she must inform Karl&Faber of this in writing. Karl&Faber shall organise transport to the buyer and appropriate insurance at the buyer's expense and, if the buyer is acting as an entrepreneur, at the buyer's risk. Karl&Faber may demand an appropriate advance payment for this.
3. In principle, the buyer is obliged to obtain any export licence required in accordance with the statutory provisions. The buyer may instruct Karl&Faber to handle the procedure required to obtain an export licence. For this purpose, the buyer must grant Karl & Faber a corresponding power of attorney for submission to the authorities. This service is subject to a charge for the buyer and will be invoiced separately, plus any third-party costs incurred. If an export licence is not granted, the buyer is not entitled to withdraw from the contract for this reason.

§ 6 TRANSFER OF OWNERSHIP, CONSEQUENCES OF CANCELLATION IN THE EVENT OF LATE PAYMENT; RIGHT OF CANCELLATION IN THE EVENT OF SUSPECTED MONEY LAUNDERING

1. Ownership of the knocked-down artwork shall not pass to the buyer until all amounts owed to Karl&Faber have been paid in full.
2. If the buyer is in default of payment, Karl&Faber may withdraw from the contract after setting a grace period; if this right is exercised, all rights of the buyer to the auctioned artwork expire. In such a case, Karl&Faber is entitled to demand compensation from the buyer in the amount of the lost remuneration (deposit and premium) as well as costs incurred for catalogue illustrations. In addition, the buyer is liable for transport, storage and insurance costs until the artwork is returned or, at Karl & Faber's discretion, until it is auctioned again. If the artwork is sold at the next auction or the auction after that, the buyer is also liable for any shortfall in proceeds. He/she is not entitled to any additional proceeds. Karl&Faber has the right to exclude the buyer from further bids in the auction.
3. If the buyer is suspected of money laundering in the course of the usual checks, Karl&Faber is entitled to withdraw from the contract. The buyer then has no right to fulfil the purchase contract.

§ 7 ONLINE PRESENTATION OF THE ARTWORKS AND LIABILITY OF THE AUCTIONEER

1. All of the artworks being auctioned are used throughout and are in a condition, in particular a state of preservation, that reflects their age and provenance. Complaints about this condition are only mentioned in the online presentation if, in the opinion of Karl&Faber, they significantly impair the overall visual impression of the artwork. Frames, passe-partouts, picture glass, pedestals and similar presentation aids are not part of the artwork and are not the subject of the purchase contract unless they are part of the artwork. The buyer has no claim to them, but they will be supplied unless otherwise instructed (except for picture glass during despatch).

2. All information in the online presentation contains only expressions of opinion, which are made to the best of our knowledge and belief. This information constitutes neither a guarantee nor a quality agreement and serves the purpose of providing the interested party with an approximate idea of the artwork and is neither part of a guarantee nor part of a quality agreement. Karl&Faber reserves the right to correct information about the artworks to be auctioned prior to the auction. This correction can be made by updating the online presentation on the website of Karl&Faber or verbally by the auctioneer immediately before the auction of the artwork. In such a case, the corrected information replaces the original description. With these stipulations, all claims against Karl&Faber, in particular claims for damages due to legal and material defects as well as for other reasons (loss/damage) are excluded. This does not apply if such claims are based on intentional or grossly negligent behaviour on the part of Karl&Faber (including its vicarious agents), have their cause in the breach of cardinal contractual obligations or concern damages due to injury to life, limb or health.
3. However, Karl&Faber undertakes to assert claims arising from the internal relationship with the consignor against the consignor – if necessary also in court – at the timely request of the buyer (see Section 6 (4)) if the buyer has proven that descriptions online regarding the authorship and technique of the auctioned artwork are incorrect and also do not correspond with the opinion of a generally recognised expert (or the creator of the catalogue raisonné, the declaration of the artist himself or the artist's foundation) on the day of the auction. In the event of a successful claim against the principal, Karl&Faber shall refund the purchase price to the buyer if there are no third-party claims to the artwork and the artwork is returned to the registered office of Karl&Faber in an unchanged condition.
4. Any claims against Karl&Faber shall lapse one year after the artwork has been handed over to the buyer. This does not apply to the claims regulated in Section 6 (2) last sentence; they expire within the statutory periods.

§ 8 POST-AUCTION SALE

These Auction Conditions apply accordingly to the sale by private treaty after the end of the auction (post-auction sale). Karl&Faber may charge the fees and levies stipulated in Section 4 in particular for such disposals.

§ 9 FINAL CLAUSES

The law of the Federal Republic of Germany applies exclusively. The United Nations Convention on Contracts for the International Sale of Goods (CISG) shall not apply. The place of fulfilment and place of jurisdiction, insofar as this can be permissibly agreed, is Munich. Should one or more provisions of these auction conditions be or become invalid, this shall not affect the validity of the remaining provisions. These Auction Conditions govern all relations between the buyer and Karl&Faber. The buyer's general terms and conditions shall not apply. There are no ancillary verbal agreements. Amendments to these auction conditions must be made in writing; this also applies to any waiver of the written form requirement. If the auction conditions are available in several languages, the German version shall always prevail.

Link to the cancellation policy and cancellation form:

https://www.karlungfaber.de/_media/2024/04/widerrufsformular_mixed-neu.pdf

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