

## Terms of Consignment

### § 1 AUCTION ASSIGNMENT

1. The Consignor (client) commissions Karl & Faber Kunstauktionen GmbH – also hereinafter referred to as “Auction House” or “Karl & Faber” – with selling by auction those work(s) of art (“Item(s)”) which are specified and listed in the auction assignment. The auction is performed publicly within the meaning of Civil Code § 383 Para. 3. The content of the auction assignment shall be governed by these Terms of Consignment and by the Terms of Auction. On signing the auction assignment, the Consignor acknowledges these Terms of Consignment and the Terms of Auction.
2. On the basis of Karl & Faber’s Terms of Auction as in force at the time, (voluntary) sale by auction is done in the Auction House’s own name for the account of the Consignor, who remains unnamed (commission). Karl & Faber entrusts an auctioneer with performing and running the auction. With regard to the auction specified in § 7 No. 1 below, only Karl & Faber shall be liable towards the Consignor.
3. If before the auction the Consignor rescinds all or part of the auction assignment (by giving notice or by declaring cancellation or withdrawal or otherwise) – without important cause, and although the Auction House is not at fault – the Auction House shall be entitled to compensation for expenses.

### § 2 DELIVERY & STORAGE OF ITEMS

1. Transportation of the works of art – both to the Auction House and where applicable their return to the Consignor – is done at the Consignor’s risk and for the Consignor’s account. If shipment is organised by the Auction House, it shall determine the means of transport and dispatch at its own conscientious discretion. Any shipping requests from the Consignor shall only be taken into account if they are issued in writing in good time.
2. The Items delivered shall be stored by Karl & Faber free of charge until the end of the period laid down in § 8 below. Up until such point in time, they shall be included from the date on which they are either delivered in Munich or taken over by a member of Karl & Faber’s staff in the general insurance policy maintained by Karl & Faber, which covers all normal risks (theft, vandalism, fire, water damage, breakage), whereby the Items delivered shall be insured at their (where applicable: lower) estimated price. The insurance policy does not cover frames, picture mounts, or any type of picture glass or passe partout or any modifications to the item, or damage to the item where such damage is due to climatic causes (such as temperature fluctuations or ambient air humidity.) Karl & Faber shall effect additional insurance solely at the Consignor’s express request and at the Consignor’s expense. If the insurer fails to settle a claim or only settles a claim in part, or if no insurance coverage exists, Karl & Faber shall only be liable towards the Consignor insofar as the damage has been caused by Karl & Faber or its statutory representatives or vicarious agents with intent or as a result of gross negligence.
3. Items which are not sold must be collected from Karl & Faber in Munich by the Consignor within 4 weeks of the end of the post-auction sale if Karl & Faber so requests, unless Karl & Faber – without obligation – returns them to the Consignor. If the Consignor defaults in acceptance, Karl & Faber may charge 1 % of the lower estimate per month for storage or sell the objects pursuant to Civil Code § 383.

### § 3 LEGAL STATUS & QUALITY FEATURES OF WORKS OF ART

1. The Consignor warrants that it is the sole proprietor of the Items delivered and has sole authority to dispose over same. If the Consignor is not the proprietor of the Items entrusted to the Auction House, it warrants that for the sale it has been granted the proprietor’s power of disposal. In all events, it warrants that no third-party rights – in particular security interest – exist.
2. The Consignor warrants that it has disclosed to the Auction House all the circumstances known to it in relation to the work of art delivered, in particular its originator, technique, signature and provenance. The Consignor is aware that this information is used as a basis for the description in the catalogue, and that all catalogue details have to be provided to the best of its knowledge and belief. Applying statutory regulations on the sale of goods accordingly, the Consignor shall be liable towards the Auction House for material defects and for defects in title in any Item delivered. If the buyer complains about any wrong catalogue details within the meaning of

Item 19 of the Terms of Auction, Karl & Faber may avail itself of this liability and for a period of three years after completion of the auction it shall be under no obligation to counter justified complaints by pleading the statute of limitations.

3. The Consignor warrants that in respect of any imports or exports, it has complied with statutory rules of the country of origin and of German (in particular: the applicable laws for the protection of cultural heritage) and thus has lawfully stored the objects delivered by it. It furthermore warrants that it has paid any and all taxes and customs duties. The Consignor shall ensure that Karl & Faber acquires possession of the Items delivered, at the latest when the auction assignment is signed.
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### § 4 COMPILING INFORMATION ON THE WORK OF ART, CATALOGUE

1. The Items to be auctioned are illustrated and described in the auction catalogue, which may also be published in the Internet. For this purpose, they are valued by Karl & Faber; in the catalogue, the estimated prices – as a rule quoting a low-to-high estimate range for more valuable Items – are given in Euros. The minimum selling price is (rounded) 75 % of the (where applicable: lower) estimated value, unless a higher limit price has been agreed, which may not exceed the (lower) estimated price.
2. Karl & Faber shall assume the task of compiling academic information on the Items. Any research work required shall be carried out either internally by Karl & Faber’s own art experts, or with the assistance of third parties. Karl & Faber shall be entitled to take Items out of their frames if necessary. If external expertises have to be obtained in order for correct information to be duly provided in the catalogue, Karl & Faber shall inform the Consignor beforehand about any costs that may be incurred, which will always have to be borne by the Consignor. If the Consignor does not consent to such expertises being obtained, Karl & Faber shall be entitled to withdraw from the auction assignment.
3. Karl & Faber shall be entitled but not obliged to obtain information from relevant sources on whether the Items delivered have been the subject of a request for restoration work or have been reported lost (e.g. from the Art Loss Register or the Lost Art Database).
4. Karl & Faber may commission restoration work on works of art that are delivered and may liquidate the respective costs, insofar as it estimates such measures as being in the Consignor’s interest and provided it has discussed the measures with the Consignor before they are carried out. This shall also apply if subsequently the Items cannot (can no longer) be put up for sale at the auction. Minor restoration tasks and cleaning are permitted even without the Consignor’s prior consent, but should likewise be discussed and agreed with the Consignor before being carried out.

### § 5 COMMISSION OWED BY CONSIGNOR

1. If an Item is sold at the auction or in the post-auction sale, Karl & Faber shall be paid the following commission per Item:  
20 % of the hammer price for sales prices up to and including EUR 1,000;  
17 % of the hammer price for sales prices from EUR 1,001 to EUR 5,000 (inclusive);  
13 % of the hammer price for sales prices from EUR 5,001 to EUR 50,000 (inclusive);  
9 % of the hammer price for sales prices from EUR 50,001 to EUR 100,000 (inclusive);  
7 % of the hammer price for sales prices of EUR 100,001 and over.
2. If no tax arrangements have been agreed in the auction instructions, or if the Consignor is not entitled to invoice for VAT, Karl & Faber shall be entitled but under no obligation to settle accounts applying the gross margin scheme pursuant to Turnover Tax Act § 25 a). In any such case, the statutory value-added tax (not expressly indicated) at a rate (at present) of 19 % shall be added to the premium. The applicable percentage amounts specified in § 5 Item 1 above shall then be 23.8 %, 20.23 %, 15.47 %, 10.71 % and 8.33 %.
3. On payment of the commission owed by the Consignor, all the services provided by Karl & Faber shall be deemed settled, except for the contributions towards costs and the expenses expressly specified below. No commission is payable on returns; however, the Consignor shall remain bound to pay the contributions towards costs and the expenses.

## § 6 CONTRIBUTIONS TOWARDS COSTS, EXPENSES

The Consignor shall refund the costs and expenses specified below to Karl & Faber, adding statutory value-added tax where applicable, which shall not be indicated separately if the gross margin scheme pursuant to Turnover Tax Act (§ 25 a) is applied:

1. Catalogue illustrations: The Consignor shall contribute towards the catalogue illustrations by assuming the following costs:  
Colour pictures: up to 1/3 page (general minimum price): EUR 75, up to 1/2 page: EUR 120, up to 1 page: EUR 250, and 1 double page: EUR 500. The sizes given relate to type-area in the catalogue. Objects for the modern and contemporary sales with an estimate below EUR 1,000 will exclusively be published online, pictures will be charged with EUR 30. The nature of the illustration and the method used shall be determined by the Auction House at its own discretion (cf. specifications in the contractual agreement on sale by auction), unless expressly agreed otherwise with the Consignor when receipt was taken of the Items.
2. Insurance: For inclusion in the Auction House's insurance, the Consignor shall pay a flat-rate contribution of 1 % of the (where applicable: lower) estimated value of the Item delivered, plus any VAT payable by law.
3. Droit de suite: The Consignor shall assume a share of the fee to compensate for droit de suite pursuant to Copyright Act § 26, which share shall amount to 1,5 % of the hammer price together with the value-added tax thereon; the Consignor shall thereupon be released by the Auction House from the obligation to make its own payment pursuant to Copyright Act § 26.
4. Other expenses: Where applicable, the costs for transportation, expertises and restoration work specified in § 2 No. 1 above, provided the Consignor has granted consent accordingly.
5. As a rule, the contributions towards costs and the expenses having to be paid by the Consignor are deducted from the auction proceeds or post-auction sale proceeds. If no work of art is sold, Karl & Faber shall issue an invoice 5 weeks after the auction for all the contributions towards costs and expenses, which invoice shall be payable and fall due 9 weeks after the auction.

## § 7 AUCTIONING

1. The auction shall take place on the Auction House's premises in Munich on the date specified in the auction assignment. The Consignor confirms that it has been notified to this effect. Karl & Faber may postpone the auction date for important reasons by 6 months at the most.
2. The minimum successful bid corresponds to the agreed limit price, or – if no limit price has been agreed – (rounded) 75 % of the (where applicable: lower) estimated value (cf. § 4 No. 1).
3. In the case of Items to which a limit price applies, Karl & Faber may – in order to protect the Item – bid in the name of the Consignor or outbid the bids which have been made until the limit price is reached. If during this auction Karl & Faber fails to reach the limit price, it may accept a bid subject to reservation. Such reservation lapses when the Consignor agrees to the bid being accepted in response to a query from the Auction House to this effect. If a bid under reserve is not approved by the principal within two weeks of the end of the auction, approval shall be deemed refused. Even without this approval however, a bid under reserve shall be deemed approved if Karl & Faber treats the Consignor in terms of the proceeds as if the limit price had been reached.

## § 8 POST-AUCTION SALE

Within a period of 6 weeks after the end of the auction, works of art for which no buyer was found at the auction may be sold by Karl & Faber for the limit price in a post-auction sale, unless this right has been expressly excluded in the auction assignment. Since it constitutes part of the auction, the provisions of these Terms of Consignment shall apply accordingly for the post-sale auction (which Karl & Faber is entitled but not obliged to hold). Statutory regulations on distance selling (Civil Code §§ 312 b) ff.) shall not apply to the post-auction sale.

## § 9 AUCTION PROCEEDS / POST-AUCTION SALE PROCEEDS

1. If the buyer itself has not yet paid the purchase price, Karl & Faber shall not be liable towards the Consignor for payment of the amounts owed by the buyer under the Terms of Auction. This shall not apply if the work for which the buyer made a successful bid is already handed over to the buyer by Karl & Faber before payment is made. If the payment is made in foreign currency under instructions from the Consignor, any exchange losses since the auction date shall be at the latter's expense.
2. With 5 weeks of the end of the auction (or of a post-auction sale that is held), Karl & Faber shall issue the Consignor with a statement of account heading the provisions laid down in § 5 and § 6 above, and shall pay over the proceeds due as shown in such statement. In the event that the buyer has not yet paid by the date on which the statement is issued, the amounts to which the Consignor is entitled shall as a rule be paid over 8 days after receipt of payment by the Auction House.

## § 10 CONSIGNOR'S LIABILITY

1. In accordance with statutory regulations on the sale of goods (Civil Code §§ 434 ff.), the Consignor shall be liable towards Karl & Faber for all material defects and defects in title in the Item consigned for sale by auction, subject to the proviso that the period of limitation only commences running when the buyer's bid is accepted. If any justified claims are filed on Karl & Faber for a material defect or defect in title reported by the buyer in good time, the Consignor shall indemnify Karl & Faber for and against such claims unless the Auction House is to blame for intent or gross negligence.
2. Karl & Faber shall not be liable for damage to the frames or any modifications to the item, or damage to the item where such damage is due to climatic causes (such as temperature fluctuations or ambient air humidity, provided it or its staff have not acted with intent or gross negligence).
3. If the information on the work's originator, technique, signature and provenance and on the Consignor's own title and authority to dispose over the work that are provided by the Consignor in accordance with § 3 Nos. 1 and 2 above is not true, the Consignor shall be liable towards Karl & Faber – notwithstanding the foregoing obligation to grant indemnification – for all losses and damage sustained by Karl & Faber in this context.
4. If, on the basis of a justified claim for a material defect or defect in title, Karl & Faber is obliged on reversing the purchase contract to refund to the buyer the purchase price the latter has paid (hammer price plus commission) together with any pro rata share in the fee to compensate for droit de suite and the statutory turnover tax, the Consignor shall be under obligation to likewise refund to Karl & Faber the amounts it was received. If the buyer's claims have already become statute-barred and the contract is reversed on a goodwill basis in order to oblige within three years of the end of the auction, the Consignor shall remain equally bound by this obligation to effect reimbursement.
5. For the aforementioned claims against the Consignor, the statutory period of limitation of 2 years shall apply, commencing on delivery of the Item.

## § 11 FINAL PROVISIONS

1. Legal relations between the Auction House and the Consignor shall be governed exclusively by German law, excluding CISG.
2. If any provision of these Terms is or becomes ineffective and/or impracticable for whatsoever cause, the validity of the remaining terms shall not be affected. The ineffective / impracticable provision shall be interpreted, reinterpreted or substituted such that the business outcome intended by the parties is achieved to the maximum possible extent.
3. For both parties, Munich shall be place of jurisdiction and place of performance in business dealings.
4. If the auction assignment contains provisions which conflict with the above terms, the former shall take precedence (priority of individually negotiated terms).
5. If the Terms of Auction are available in various languages, the German version shall prevail at all times.

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