

# Auction Terms and Conditions

## 1. Auction

1.1 Auktionshaus Dr. Jürgen Fischer conducts auctions in a public auction by law Section 383 (1) of the German Civil Code (BGB) as commission agent on its own behalf and on behalf of the clients (the "Sellers"), who shall remain anonymous. The figures in brackets signify the seller.

1.2 The items to be auctioned may be viewed and examined prior to the auction, the potential buyers being liable for any damage caused by them to the items exhibited.

## 2. Condition, Warranty

2.1 The works of art that are up for auction and can be examined and viewed as part of the advance viewing are without exception used items. They are in a state of repair that corresponds to their age and provenance. Objections to the state of repair are only mentioned in the catalogue if in the opinion of Auktionshaus Dr. Jürgen Fischer they adversely affect the visual impression of the work of art as a whole. Potential buyers may request a status report for every work of art. In all cases the actual state of repair of the work of art at the time a bid is accepted is the agreed condition for purposes of the statutory provisions.

2.2 All information contained in the catalogue is based on the scientific knowledge that has been published or is otherwise generally available up until the date of the auction.

If an additional Internet catalogue is prepared, the information in the printed version shall nevertheless prevail. The auctioneer reserves the right to correct catalogue information on the works of art that are to be auctioned. That correction is made by written notice at the location of the auction and orally by the auctioneer immediately before the specific work of art is auctioned. The corrected information will replace the description in the catalogue.

2.3 Irrespective of the rule in Clause 2.1 the catalogue descriptions, which have been done to the best of knowledge and belief, are no guarantee in legal sense or a contractual agreement of quality. This will also apply if the relevant object was used for advertising purposes.

2.4 The auctioneer assumes no liability for defects as far as he has fulfilled his duty of diligence. But he commits himself to assert complaints which have been brought forward in due time within the limitation period to the consigner; Thereby, the limitation period regarding the authenticity is set at twelve months, for any other defects six months after the sale. In case of successful claim to the consigner, the auctioneer will refund the purchasing price including the commission to the buyer.

2.5 Damages claims against Auktionshaus Dr. Jürgen Fischer for legal and material defects and on other legal grounds (including compensation for futile expenses) are excluded unless they are due to intentional or grossly negligent conduct by Auktionshaus Dr. Jürgen Fischer or to the breach of significant contractual duties

by Auktionshaus Dr. Jürgen Fischer or are caused by injury to life or limb or damage to health.

## 3. Conduct of Auction, Bids

3.1 The price estimates stated in the catalogue are not minimum or maximum prices but are used only as an indication for the market value of the items and no warranty is given as to their accuracy. Low value items may be auctioned as group lots. Usually, bidding starts at 80% of the lower estimate.

3.2 The auctioneer reserves the right during the auction to combine, separate, offer out of sequence or withdraw numbered lots.

3.3 All bids are deemed to be submitted by the bidder on his own behalf and for his own account. If a bidder wishes to bid on behalf of a third party he must notify this 24 hours prior to the start of the auction, stating the name and address of the party he is representing and submitting a written power of attorney. Otherwise the purchase contract is concluded with the bidder when the bid is accepted.

3.4 Bids may be submitted in the auction room by any bidder registered with Auktionshaus Dr. Jürgen Fischer by means of a bidder number.

3.5 Subject the auctioneer's consent, absentee bids may also be submitted, i.e. in writing, by telephone or online. Absentee bids are generally permitted if the bidder has applied to Auktionshaus Dr. Jürgen Fischer for permission at least 24 hours prior to the start of the auction. The application must specify the work of art and list the lot number and catalogue name. In case of doubt, the lot number shall prevail; the bidder shall bear the consequences of any uncertainties. The auctioneer accepts no responsibility for processing the absentee bids. This does not apply where Auktionshaus Dr. Jürgen Fischer is responsible for a mistake made intentionally or through gross negligence. Once accepted, absentee bids shall be equivalent to bids made in the auction.

3.6 The written bid must be signed by the bidder and specify the hammer price that is bid for the work of art (bid price without premium and V.A.T.). Written bids are deemed to constitute bids already submitted during the auction. If Auktionshaus Dr. Jürgen Fischer receives several written bids for the same amount for the same work of art, the bid that was received first shall be accepted if there is no higher bid. If the bids are received on the same day the decision shall be made by drawing lots. Each written bid shall be used by the auctioneer only in the amount necessary to outbid another bid that has been made.

3.7 Telephone bids have to be announced at least one day before the auction in writing with all details (personal data, phone number, relevant lot number). The telephone bidder will be contacted by phone before the requested lot is called up. Telephone bids may be recorded by Auktionshaus Dr. Jürgen Fischer. By applying for telephone bidding, the applicant declares that he agrees to the recording of telephone conversations. Auktionshaus Dr. Jürgen Fischer is not liable for setting up and maintaining telecommunications connections or for transmission errors.

The sale of unsold lots is part of the auction, in which interested parties place their orders for submitting bids of a specific amount in writing.

In the cases of written bids, telephone bids and the sale of unsold lots mentioned above, the provisions on distance contracts (§§ 312b - 312d of the German Civil Code) do not apply.

3.8 Auktionshaus Dr. Jürgen Fischer shall decide if and under what conditions bids over the Internet are permitted. Bids over the Internet are only permitted if the bidder has been authorised by Auktionshaus Dr. Jürgen Fischer to bid over the Internet by providing him with a user name and password. They only represent valid bids if they can be unequivocally matched to the bidder by means of such user name and password. Bids over the Internet are recorded electronically. The accuracy of the transcripts is accepted by the bidder/Buyer, who is nevertheless free to adduce evidence that they are inaccurate.

Bids over the Internet at a Live Auction, which are submitted prior to the start of the auction, are invalid. Bids over the Internet, which are submitted during the ongoing auction, are regarded in the same way as bids from the auction room. Bids over the Internet, which are submitted after the end of the auction, are deemed to constitute offers for the conclusion of a purchase contract in the subsequent sale. A contract is concluded only after Auktionshaus Dr. Jürgen Fischer accepts the bid.

3.9 The auctioneer may exclude persons from the auction especially if they interfere with the auction or the viewing. Buying, selling and exchanging goods within the Auktionshaus Dr. Jürgen Fischer is forbidden to persons who don't belong to the staff. If anybody should act contrary to this rule he will be banned from the house.

#### 4. Acceptance of Bid, Passing of Risk, Collection

4.1 A bid is accepted after the auctioneer has called the highest bidder's bid three times. When a bid is accepted a purchase contract is created between Auktionshaus Dr. Jürgen Fischer and the bidder whose bid has been successful. The auctioneer may refuse to accept the bid or accept it subject to reservation. This applies in particular when a bidder, who is not known to the auctioneer or with whom there is no business relationship as yet, does not, by the start of the auction at the latest, provide security in the form of bank information or guarantees. In principle, however, no entitlement to having a bid accepted exists. If a bid is refused, the previous bid remains valid. If several people place the same bid and there is no higher bid after three calls, the decision will be made by drawing lots. The auctioneer may revoke acceptance of the bid and re-offer the item if a higher bid that was made at the proper time has been overlooked by accident, if the highest bidder does not want his bid to stand, or if there are other doubts as to the acceptance. If no bid is successful even though several bids were submitted, Auktionshaus Dr. Jürgen Fischer is liable to the bidder only for intent or gross negligence. A bidder remains bound to a bid that has been accepted subject to reservation for a period of one month. A bid accepted subject to reservation only becomes valid if Auktionshaus Dr. Jürgen Fischer confirms the bid in writing within one month after the date of the auction by submitting a corresponding invoice.

4.2 Acceptance of a bid imposes an obligation to collect the item. Risk passes to the buyer when the bid

is accepted. Buyers who are present must collect the items immediately after the auction. In principle, the items are only handed over following payment in full of all sums owed by the Buyer.

4.3 Buyers who are not present must collect the items immediately after the auctioneer has advised them that the bid has been successful. Auktionshaus Dr. Jürgen Fischer shall organise the insurance and shipment of the work of art to the Buyer only upon the latter's written instructions and at his cost and risk. Externally visible damages shall be claimed in writing immediately at the delivery. Externally invisible damages shall be claimed in writing within 24 hours after the delivery when delivered by post, within 4 days after the delivery when delivered by carrier and within 7 days after the delivery when delivered by other firms.

4.4 If the buyer has not collected the items from Auktionshaus Dr. Jürgen Fischer at the latest three weeks after his bid has been accepted and/or after he has been notified, Auktionshaus Dr. Jürgen Fischer will call upon the buyer to collect the items within one week. Six weeks after his bid has been accepted the buyer has to pay 1 €/day and object for uncollected purchases if the Auktionshaus Dr. Jürgen Fischer did not yet receive the total invoice amount and the shipping fees. Auktionshaus Dr. Jürgen Fischer shall under no circumstances be liable for loss of or damage to items that have not been collected or not handed over due to non-payment, unless Auktionshaus Dr. Jürgen Fischer acted intentionally or with gross negligence.

#### 5. Purchase Price, Payment

5.1 The Buyer must pay, in addition to the bid price, a premium of 28 % per sale. The premium already includes statutory V.A.T. but, due to differential taxation under Section 25a of the German Turnover Tax Act (UStG), is not stated. An exception are lots with an asterisk \* before the catalogue number. They are to be sold with V.A.T. and are calculated in line with standard taxation, i.e. statutory turnover tax (currently 19 %) is levied on the bid price plus 24% premium.

If it should be necessary to obtain CITES certificates for the purpose of granting special exemption from the prohibition of marketing objects covered by this Convention, then the cost thereof shall be borne by the purchaser. In addition, a processing fee of 100.- € per lot as well as a flat-rate fee of 100.- € per lot will be charged for making up the export documents. No guarantee is given that a permit will be granted (CITES, protection of species, export).

Auktionshaus Dr. Jürgen Fischer optionally charges a flat rate at most of 1.8%, plus statutory VAT, if any, based on the hammer price as a pro rata compensation for the legal obligation of the resale right (droit de suite) duty on all original works of art as well as original-photo-graphic works created since 1900. Auktionshaus Dr. Jürgen Fischer will pay the resale right (droit de suite) duty accordingly. The consignor is therefore released from all personal obligations to pay the droit de suite.

For merchants who have a right to deduct input tax, the invoice may, if desired, (after prior notification) be made out in line with standard taxation. V.A.T. is not charged on shipments to foreign countries (i.e. outside the EU)

nor – when the VAT-ID no. is stated - to companies in EU member states, premium in these cases is 24 %. If parties participating in an auction take purchased items into foreign countries themselves, they will be reimbursed the turnover tax as soon as Auktionshaus Dr. Jürgen Fischer has the export and acquirer certificate. Foreign payments from Non-EU member states will be subject to a surcharge on the premium of 2 % administrative fees. Invoices issued during or immediately after the auction must be verified; errors remain reserved to this extent.

5.2 Payment of the total amount due upon acceptance of a bid must be made in cash or by bank certified cheque. Cheques are only accepted on account of performance. All taxes, costs, transfer or encashment fees (including the bank charges deducted by Auktionshaus Dr. Jürgen Fischer) are to be borne by the Buyer. Purchasers who participate in person at the art auction must pay Auktionshaus Dr. Jürgen Fischer the purchase price immediately after the bid is accepted. Default in payment commences two weeks after the date of the invoice.

Payments must be made to Auktionshaus Dr. Jürgen Fischer in Euro. The same applies to cheques, which are only accepted as performance once they have fully cleared through the bank.

## 6. Retention of Title, Offset, Right of Retention

6.1 Title to the work of art passes to the Buyer only upon receipt of all payments owed under Clause 5 in full. In the event that the Buyer sells the work of art before he has met all of Auktionshaus Dr. Jürgen Fischer claims, the Buyer hereby assigns to Auktionshaus Dr. Jürgen Fischer all claims arising from the resale. Auktionshaus Dr. Jürgen Fischer hereby accepts such assignment.

6.2 Against claims by Auktionshaus Dr. Jürgen Fischer, the Buyer can only offset claims that are undisputed or that have been legally and finally determined.

6.3 The Buyer has no right of retention based on claims arising from any prior transaction with Auktionshaus Dr. Jürgen Fischer. To the extent that the Buyer is a merchant, he waives his rights under Sections 273, 320 of the German Civil Code (BGB).

## 7. Default

7.1 The purchase price is due upon acceptance of the bid.

7.2 In the event of default in payment, default interest of 1% per month is charged. The buyer is entitled to provide evidence that the loss is less or that there is no loss. In addition, in the case of default in payment, Auktionshaus Dr. Jürgen Fischer may elect to demand performance of the purchase contract or may rescind the contract after setting a suitable period for performance. In the event of rescission, all of the Buyer's rights to the purchased work of art shall lapse and Auktionshaus Dr. Jürgen Fischer shall be entitled to demand damages amounting to the lost fee for the work of art (consignor commission and premium). If the item is re-auctioned at a new auction, then the defaulting Buyer is additionally liable for any shortfall in proceeds compared with the earlier auction and for the costs of the repeat auction; he is not entitled to any excess proceeds. The auctioneer has the right to exclude him from further bids in auctions

and to pass his name and address on to other auction houses for the purpose of banning him.

7.3 One month after default has occurred, Auktionshaus Dr. Jürgen Fischer is entitled to and, if the consignor demands it, required to provide the latter with details of the name and address of the Buyer.

## 8. Miscellaneous Provisions

8.1 These Auction Terms and Conditions shall govern all relations between the Buyer and Auktionshaus Dr. Jürgen Fischer. The Buyer's General Commercial Terms and Conditions shall not apply. There are no verbal ancillary agreements. Amendments must be made in writing to be valid.

8.2 Heilbronn is the sole place of performance and shall be the exclusive place of venue for all transactions between qualified merchants. German law shall apply; the UN Convention on Contracts for the International Sale of Goods (CISG) shall not apply.

8.3 The above provisions shall also apply mutatis mutandis to the private sale of the items consigned for auction.

8.4 If any of the above provisions are invalid in whole or in part, the validity of the remaining provisions shall remain unaffected thereby. In cases of doubt the German version of these Auction Terms and Conditions shall prevail.

**Dr. Jürgen Fischer, Monia Becker**  
Managing Directors  
Public Sworn Auctioneers

**Note:** The English translation is for orientation only, binding is the German version.