

TERMS AND CONDITIONS OF AUCTION

By participating in the auction, you acknowledge the following terms and conditions. These terms and conditions shall constitute the agreement with the Auctioneer:

1. Participation in the auction is voluntary. The auction is conducted by Ursula Nusser, publicly appointed and sworn auctioneer (hereinafter referred to as "Auctioneer") on behalf of the Consignor. The Consignors will be identified. Items for sale by the Auctioneer are listed separately in the index of owners of the respective catalog.
2. The Auctioneer reserves the right to combine items on auction (hereinafter referred to as "items on auction" into lots, to divide lots, and, if there is special reason to do so, to offer lots outside of sequence or withdraw lots from auction.
3. All items on auction may be viewed and inspected before the auction. The items on auction are used and shall be auctioned "as-is". There shall be no substitute items in the sense of a replacement of damaged goods as set down in §439 of the German Civil Code (*BGB*). Except for the Auctioneer's own items as seen in the catalog, the Auctioneer does not assume any liability for visible or concealed defects or for attributions, however the Auctioneer shall forward to the Consignor of the criticized items a notification of reported, justifiable defects submitted by the buyer within the statutory warranty period (§438 of the *BGB*). The Auctioneer does not assume any warranty for the condition or durability of auctioned items. Items listed in the catalog are described to the best of knowledge and belief, particularly details regarding dimensions, weight, origin, age, completeness, state of preservation etc. These descriptions, however, serve to distinguish the items on auction from one another and do not represent any specification of characteristics under laws relating to the sale of goods, and in particular do not represent an offer to enter into an "agreement on quality and condition". The state of repair of items on auction is mentioned only occasionally in the catalog. Lack of information regarding the state of repair of items on auction likewise does not give rise to an "agreement on quality or condition". The same applies analogously to verbal or written information that a buyer obtains from auction house staff members.
4. Starting bids are normally called at the catalog price, unless there are higher bids in writing. Bids are raised at the Auctioneer's discretion, generally by 10%, the minimum increment being €10.00. The Auctioneer may reject a bid, particularly if a bidder not known to the Auctioneer does not provide security before the auction begins. In such cases, the preceding bid becomes the binding bid. Clients who are unable to attend the auction or who do not wish to place the bid themselves can authorize the Auctioneer in writing to bid on specific items on auction on their behalf. Alternatively, provided that there is a written order bid, these clients may bid for themselves over the telephone while the auction is underway; there shall be no guarantee, however, that a telephone connection will be able to be established. For written order bids, it is the catalog number alone that is decisive and not the item designation. Only customers who have been issued a customer number by the auction house can fax in written bids. New customers are accepted as bidders only after their identification has been sufficiently verified. We cannot accept bids by e-mail. A written order bid must be received at the latest 24 hours before commencement of the auction. Bids are binding and do not include premium and VAT. The highest possible price shall be obtained for winning bids.
5. A bid shall be accepted as the winning bid if no higher bid is received after three calls. If there are multiple identical written bids, the winning bid shall be the first bid received, or, in case of doubt, shall be drawn by lots. The Auctioneer may cancel an accepted winning bid and offer the item for auction again if a higher bid made in time was overlooked by mistake and a complaint was filed immediately by the bidder or if there are other doubts regarding the accepted winning bid. If a highest bidder does not wish to honor their bid, the Auctioneer can nonetheless accept the bid and demand fulfillment of contract. Alternatively, the Auctioneer may accept the immediately preceding bid or may restart bidding for the item. The Auctioneer can refuse to proclaim a winning bid or can accept a winning bid provisionally if there is special reason for doing so. In the event of provisional acceptance of a winning bid, the buyer shall be bound to their bid for a period of 4 weeks. If the bid is not accepted without conditions within this timeframe, it shall expire. If the Consignor does not consent to a condition or a bid is made at the limit price, the item can be sold to the higher bidder without further consultation.
6. A winning bid commits the bidder to immediate purchase and payment of the purchase price. Upon acceptance of the winning bid, the risk for any damages, loss etc. passes over to the buyer, but ownership shall transfer only after the entire purchase price has been paid and items have been handed over. Every buyer makes purchases on their own behalf and is responsible for their own bidder number. Transfers shall not be recognized.
7. The purchase price consists of the price at which the winning bid was accepted (hammer price), a premium of 22.69 % over the hammer price, plus prevailing statutory VAT, which is levied only on the premium. For items owned by the Auctioneer as referred to separately under Item 1, the prevailing statutory VAT is levied on the net invoice price (hammer price + premium). Items owned by the Auctioneer and marked with a * in the catalog are subject to reduced VAT rates. Invoices issued during or directly after the auction must be rechecked by the Auctioneer, who reserves the right to raise objections to any computational errors found.
8. The purchase price as laid down in item 7 is due immediately upon acceptance of the winning bid and delivery of invoice, and must be paid to the Auctioneer in cash if the bidder attended the auction in person. If the winning bid is a written bid, payment is due and must be made within 8 days from the date of invoice. Checks can be recognized as payment in full only after their unconditional clearance and only when they include all expenses. In a case of default, the Auctioneer is entitled to legally enforce the claim for the entire purchase price against the buyer and may act on his own behalf.
9. In a case of default of payment, without prejudice to further claims, the Auctioneer can demand interest on arrears at the standard interest rate for bank overdrafts. The buyer shall be liable for any damages incurred should he or she default on the obligation to pay or purchase an auctioned item. The Auctioneer has the option of either demanding performance of the purchase agreement or demanding compensation for non-performance, and can auction off the item again at the buyer's expense. In this event, the buyer, whose rights from the earlier winning bid are extinguished, shall be liable for any negative difference in final bid prices; however, the buyer cannot claim a portion of additional proceeds, if any, and is also not entitled to make a fresh bid. The statutory rights of the Auctioneer arising due to default on the part of the buyer shall not be affected.
10. The place of performance for transfer of ownership of auctioned items is the business premises of the Auctioneer. The buyer is not entitled to have the purchased items sent to him/her. Items will be sent only as an exception and under express instructions from the buyer and at the buyer's own cost and risk. Costs for packing and shipping shall be computed on the basis of dimensions, hammer price and delicateness at the time the instructions are received, and are payable immediately. Packing and shipping will take place only after these costs have been paid. Auctioned items not collected immediately by the buyer, but which must be collected at the most 10 days after the auction, may be stored with a shipping company at the cost and risk of the buyer without notice being given. Liability for any damage (e.g. to picture frames and glass), loss etc. to the auctioned items is excluded. Item 11 Line 2 applies analogously. Purchased goods that have been stored will be delivered only after receipt of payment in full.
11. A buyer of the Auctioneer's own items is an entrepreneur within the meaning of §14 of the *BGB* and is excluded from any guarantee under sales law. This does not apply to intention and gross negligence or to liability for compensation for injury to life, limb or health that is due to intentional or negligent breach of duty by the Auctioneer or intentional or negligent breach of duty by a statutory representative or vicarious agent of the Auctioneer, or breach of a material contractual duty (an obligation the satisfaction of which makes due performance of the contract possible in the first place, and compliance with which is and may normally be expected by the other party). In all other cases of contractual or statutory claims for compensation against the Auctioneer by a buyer or other participant in a pre-inspection or auction, the Auctioneer is liable only for intention and gross negligence. Liability on the part of the Auctioneer due to slight negligence is excluded. Item 11 Line 2 applies analogously.
12. Every visitor who spends time on the business premises of the Auctioneer is liable for all damages he or she causes even if not at fault.
13. These terms and conditions of auction shall apply analogously to sale by private contract as well.
14. German law shall apply exclusively, to the exclusion of statutory rules in respect of conflict of laws. The German version of these terms and conditions of auction shall be the solely applicable version. The UN Convention on Contracts for the International Sale of Goods (CISG) is not applicable. The place of payment and performance is Munich. If the contractual party is a merchant, a legal person under public law or an entity specially funded under public law, or if it has no general place of jurisdiction within the jurisdiction of German law or its place of residence or habitual abode is not known at the time a complaint is filed, or if, after conclusion of the agreement, it has transferred its place of residence or place of habitual abode outside the jurisdiction of German law, the exclusive place of jurisdiction shall be held to be Munich.
15. The auction house is neither obligated nor willing to settle disputes before a consumer arbitration board.
16. Should one of the above terms and conditions become ineffective, the remaining terms and conditions shall continue to remain valid.