

## **GENERAL TERMS AND CONDITIONS**

*governing the purchase by auction of moveable property. These General Terms and Conditions were filed with the Chamber of Commerce and Industry for Amsterdam on 30 March 2004 under no. DS. 40530226.*

### **Article 1 Applicability**

- 1.1 These General Terms and Conditions govern all aspects of the relationship between the auctioneer and the purchaser, including aspects relating to purchase, sale, agency, valuation, assessment, appraisal, cataloguing and safekeeping. The term 'purchaser' includes prospective purchasers who participate in the auction.
- 1.2 Deviations from these General Terms and Conditions are valid only if and insofar as they are explicitly accepted in writing by the auctioneer.
- 1.3 Visitors to the auction will be informed of the applicability of these General Terms and Conditions by publication in the catalogue prior to the auction and/or notification prior to the auction. All parties who participate in the auction thereby indicate their full acceptance of the applicability of these General Terms and Conditions.

### **Article 2 Duty to provide information/duty to examine**

- 2.1 The auctioneer and his personnel provide all descriptions in the catalogue and all written or oral information to the best of their knowledge.
- 2.2 Before making a purchase the purchaser must carefully and professionally inspect (or cause the inspection of) the condition and the description of the object in the catalogue or the lot list to his own satisfaction and to form his own opinion about the degree to which the object is in accordance with its description. If reasonably necessary or desirable the purchaser must obtain the independent advice of experts. The purchaser cannot rely on illustrations contained in the catalogue. If particular defects or imperfections are noted in the catalogue, such notifications must be deemed a non-exhaustive indication from which the purchaser cannot derive any rights.
- 2.3 The auctioneer cannot be held liable for the accuracy of the description of materials contained in the catalogue, or otherwise made known, such as types of wood, fabrics, alloys, earthenware, porcelain or diamonds, with the exception of precious metals. The auctioneer will accept liability for incorrect descriptions only insofar as provided in Article 6 of these General Terms and Conditions.

### **Article 3 Bidding**

- 3.1 The purchaser can bid in person. The purchaser can also bid by telephone or by leaving written bidding instructions. Other bidding methods, such as electronically, via the Internet or oral bidding instructions, may be used only if explicitly offered by the auctioneer.
- 3.2 Written bidding instructions must be unambiguous and clear and must be received by the auctioneer in sufficient time, in the auctioneer's opinion, before the commencement of the auction. If the auctioneer receives more than one set of bidding instructions and the amounts to be bid are the same, and if at the auction those bids are the highest bids for the object in question, the object will be sold to the person whose bid was first received by the auctioneer.
- 3.3 Bidding instructions will be followed only if the auctioneer has a reasonable opportunity to do so. The auctioneer may at any time refrain from

carrying out bidding instructions.

- 3.4 If the purchaser wishes to bid by telephone he must so agree with the auctioneer in writing not later than one day before the auction.
- 3.5 The auctioneer excludes all liability in respect of the failure, for any reason whatsoever, of a bid by telephone. The same applies to written bids, electronic bids and bids via the Internet.

### **Article 4 Conclusion of contract of sale**

- 4.1 The sale is concluded upon definitive allocation. An object has been definitively allocated when the auctioneer has accepted the purchaser's offer or has declared the object sold to the purchaser.
- 4.2 All objects are sold in their condition at the time of allocation.

### **Article 5 Purchaser's obligations**

- 5.1 The purchaser must provide proof of his identity at the auctioneer's first request.
- 5.2 The purchaser is deemed to have bought the object for himself and is liable for payment. The purchaser may not invoke the obligations of a principal.
- 5.3 The rights and obligations pursuant to the contract of sale and these General Terms and Conditions are vested in and accrue to the purchaser. The purchaser cannot transfer those rights and obligations to third parties.

### **Article 6 Auctioneer's obligation to take back objects**

- 6.1 Unless explicitly excluded in respect of a particular object in the catalogue or lot list, the auctioneer is willing – without prejudice to Articles 2 and 4.2 – to take back an auctioned object and simultaneously reimburse the purchase price and auction charges if the purchaser proves to the auctioneer's satisfaction within a period of three weeks after the sale that the auctioned object has such serious hidden defects or that the description provided was so inaccurate that if the purchaser had been aware of those defects or that inaccurate description at the time of allocation he would have decided not to go ahead with the purchase or would have purchased the object only for a considerably lower price. This provision does not apply if the defects relate only to the condition of the object (such as wear and tear and restorations).
- 6.2 The auctioneer is not willing to take back an object if the description in the catalogue was revoked prior to or during the auction and if those present at the auction were informed of the correct description orally or in writing.
- 6.3 The auctioneer's willingness to take back an object will also lapse if, in the auctioneer's opinion, the purchaser cannot return the auctioned object in the same condition as that at the time of allocation.

## **Article 7 Auctioneer's rights**

7.1 The auctioneer reserves the following rights:

- a. to refuse to accept persons as bidders or as purchasers without stating any reason;
- b. to change the order of sale at any time;
- c. to omit or add objects;
- d. to combine or split up sales;
- e. to refrain from awarding sales or to suspend sales;
- f. to rectify errors in bidding or allocation or to nullify a sale, without the bidder being permitted to take advantage of errors and thereby invoke the conclusion of a contract of sale;
- g. to demand full or partial payment immediately after allocation; in the event of refusal or inability to pay, the auctioneer is entitled to nullify the contract of sale, auction the object again and refuse to accept any offers from the bidder who was in default;
- h. if the purchaser refuses to state his full name and address and provide appropriate proof of identity to the auctioneer at the auctioneer's first request, to dissolve the contract of sale and auction the object again;
- i. to refrain from transferring objects from the account of the original purchaser to the account of another party;
- j. to refrain from delivering objects during the auction;
- k. to make bids on behalf of purchasers or sellers; and
- l. to once again auction objects in respect of which a dispute has arisen during or shortly after the auction and to dissolve any contract of sale.

## **Article 8 Payment/transfer of ownership**

- 8.1 The purchaser must pay the purchase price in euros, plus auction charges, other fees and any VAT due, to be determined by the auctioneer, before delivery of the item purchased and within a term to be set by the auctioneer, without applying any discount or setoff, unless the parties have agreed otherwise.
- 8.2 The 'margin arrangement' may be invoked only if, in the sole opinion of the auctioneer, all of the relevant rules have been complied with prior to the auction, including the rules governing the purchasing statement.
- 8.3 The ownership of objects will not be transferred until the full purchase price has been paid. In the event of late payment the ownership of objects will not be transferred until the full purchase price has been paid including the fees referred to in Article 9.

## **Article 9 Late payment**

- 9.1 In the event of late payment the auctioneer may charge the purchaser interest at the statutory interest rate increased by 3% or – at the auctioneer's discretion – 1% monthly, to be calculated as from the date on which the payment term expired. In addition, all court and out-of-court costs must be paid by the defaulting purchaser; those costs are estimated at 15% of the purchase price increased by the auction charges, with a minimum of EUR 250 (in words: two hundred and fifty euros), without prejudice to the right to recover the actual costs.
- 9.2 If the purchaser exceeds the payment term and is thereby in default by operation of law, the auctioneer

is also entitled to dissolve the contract of sale in writing. In the event of dissolution, any partial payments will be forfeited to the auctioneer as compensation of damage. The auctioneer will also be entitled to recover from the purchaser the full damage, such as lower proceeds, and costs and once again to auction the object immediately or at a later date or to sell it. The defaulting purchaser cannot claim any higher proceeds.

## **Article 10 Term for collection**

- 10.1 The purchaser is obligated to take possession of the object purchased and to collect it (or have it collected) within a term to be indicated by the auctioneer. The ultimate term for collection is five working days after the last day of the auction, subject to the auctioneer's right to indicate a shorter or longer term.
- 10.2 If the purchaser fails to take possession of and collect the object purchased (or have it collected) within the term set, the purchaser will be deemed in default by operation of law and the provisions contained in Article 9 will apply accordingly. The auctioneer will also be entitled to have the purchased object stored at the purchaser's risk and expense, in which context transport costs and the related risks will also be for the purchaser's account.

## **Article 11 Unsold objects**

- 11.1 If an object to be auctioned remains unsold, for a period of ten days after the auction the auctioneer is entitled, but not obligated, to sell the unsold object, unless a different agreement has been made with the contributor.
- 11.2 The auctioneer will conclude such a sale after the auction ('aftersale') only if that sale can be made for a price that results in an amount that is at least equal to the net proceeds of sale to which the seller would have been entitled if the object had been sold at the reserve that applied to that auction, unless a different agreement is made with the seller.
- 11.3 A purchase by a purchaser within the meaning of this Article will be deemed a purchase at auction that is governed in full by these General Terms and Conditions.

## **Article 12 Auctioneer's liability**

- 12.1 The auctioneer will in no event be liable for damage to picture frames, other frames and any related objects such as glass plates, passepartouts, etc., unless the damage is caused by an intentional act or wilful recklessness on the part of the auctioneer and/or assistants or staff members whom the auctioneer engages.
- 12.2 The auctioneer will in no event be liable for loss of profits, consequential loss, pecuniary loss and/or indirect damage.
- 12.3 The auctioneer will in no event be liable for any accident or any form of damage that anyone incurs in or near the buildings or sites intended for contribution, storage or viewing, or where the auction is held or goods sold can be collected, unless the damage is caused by an intentional act or wilful recklessness on the part of the auctioneer and/or assistants or staff members whom the auctioneer engages and/or insofar as the damage is covered by the auctioneer's insurance.
- 12.4 Buildings or sites are entered at one's own risk.

### **Article 13 Photographs and illustrations**

13.1 The auctioneer is entitled to photograph, illustrate or otherwise portray, depict or cause the depiction of all objects offered for sale, in any manner whatsoever, before, during or after the auction, with due observance of applicable statutory provisions. The auctioneer retains the copyright on all such depictions.

### **Article 14 Miscellaneous**

14.1 If any provision contained in these General Terms and Conditions is null, nullified or non-binding, the other provisions will continue to apply in full. In the event that one or more provisions are null, nullified or non-binding, the purchaser and the auctioneer will agree on replacement provisions that are valid and that approximate the content and purport of the null, nullified or non-binding provision(s) as closely as possible.

14.2 These General Terms and Conditions are governed exclusively by Dutch law.

14.3 All disputes with respect to, arising from or related to a contract of sale concluded by the auctioneer and the purchaser, the conclusion of a contract of sale or these General Terms and Conditions will be submitted for resolution exclusively to the competent court of Amsterdam, the Netherlands, subject to the auctioneer's right to submit the dispute to the competent court in the purchaser's district.

**The Dutch Federation of Valuers, Brokers and Auctioneers in Movable Goods and Machinery (*Federatie Taxateurs Makelaars Veilinghouders in roerende zaken en Machinerieën*).**

**Copyright explicitly reserved. Only members of the Federation of Valuers, Brokers and Auctioneers in Movable Goods and Machinery may adopt and use these General Terms and Conditions.**



Beschrijving en garantie bij aankoop van schilderijen:

1. Naam met voorna(a)m(en), geboortedatum enzovoort de werken zijn naar ons inzien van de meester, worden door ons gegarandeerd. **Bij gebleken onjuistheid kunt u het werk binnen drie weken retourneren en krijgt u uw geld terug. (U overlegt een bewijs dat het werk niet voldoet aan de omschrijving)**
2. Naam met enkel de voorna(a)m(en) of voorletter(s) vermoedelijk van de meester maar **geen garantie voor terugname.**
3. Naam zonder toevoeging, niet van de meester en **geen garantie voor terugname.**

**Voorwaarden twee en drie houdt dus in dat wij geen enkele verantwoording nemen voor de namen of signaturen die op deze werken zijn vermeld.**

Images.

The buyers are deemed to have inspected the lots which are sold without a guarantee, even if the nature, state, quantity or name is not fully compliant with the images shown. Possible deviations from the actual state can not give rise to termination of the sale or to the destruction of the sale. All images are purely indicative, on the understanding that incorrect images can not lead to the liability of Oprechte Veiling bv and / or the seller.