

Conditions of Sale Salzburg

1. **NAGEL AUKTIONEN GmbH & Co. KG, Salzburg branch office**, conducts the auction of movable objects according to the provisions of the Trade Regulation Act in accordance with the General Rules of Procedure set out in the business premises of the branch office. The Auctioneer auctions in a public auction in his own name as the consignee and on behalf of the Consignor, whose name is not disclosed. By participating in the auction the following Auctioneer's Terms and Conditions of Sale for Auctions are accepted
2. **Defects a)** All items to be auctioned can be viewed and inspected before the auction. The objects are used. The catalogue descriptions are made to the best of one's knowledge and belief, but are for informational purposes only and are not part of the contractually agreed properties of the items within the meaning of § 992 of the Austrian Civil Code (ABGB) and, in particular, are not a guarantee within the meaning of § 880a of the ABGB. The same applies to verbal or written information of all kinds, as well as the description of the items when called. If an Internet catalogue is prepared in addition, the information in the printed version is nevertheless authoritative. Impairments of the state of the items' preservation are not indicated in every case, such that a lack of disclosures also does not constitute an agreement on the properties of the items. The Auctioneer reserves the right to correct catalogue information. This correction occurs by posting written notices at the place of the auction and by verbal corrections made by the Auctioneer immediately before the auction of the individual item. The corrected disclosures takes the place of the catalogue descriptions. All items are auctioned in the condition in which they are at the auction. **b)** In the event of claims of material defects and defects of title asserted within twelve months after the knockdown, the Auctioneer shall undertake at his own discretion to assign his claims to the purchaser or to assert his claims directly against the Consignor. The prerequisite for this is that the purchaser has paid the bill for the auction. The submission of an expert opinion from a recognised expert proving the defect and made at the expense of the purchaser is required for the assertion of a material defect. Otherwise, a liability of the Auctioneer for defects of title and material defects is excluded, provided the Auctioneer has fulfilled his due diligence obligations.
3. **Bids a) Floor bids** Each bidder must provide his name and address before the start of the auction. This also applies if he takes part in the auction as a representative. In this case, he must also provide the name and address of the party represented. In cases of doubt, the bidder acquires in his own name and for his own account. Each bidder shall submit a deposit before the start of the auction. **b) Absentee bids** In order to ensure that written bids are correctly carried out, they must be entered on the form provided for this purpose - and be received by the Auctioneer at least 48 hours before the start of the first day of the auction. For the submission of a written bid to be effective, detailed information on the person or company of the bidder as well as the lot number are required. A telephone number at which the bidder can regularly be reached must be indicated when the bid is placed. The bid is limited exclusively to the specified lot number. Written bids are used by the Auctioneer only with the amount necessary to outbid another bid that has been placed. Telephone bids will be accepted by telephoning the bidder before the desired lot is called. This is only done for lots with an estimated price of €750 or above. The requirement for telephone participation is a written notice received by the Auctioneer at least 48 hours before the start of the first day of the auction. It is possible to make online bids at specific auctions (www.auktion.de); registration is required at least 48 hours before the start of the first day of the auction. The Auctioneer assumes no liability for the establishment or maintenance of telecommunication connections or for the proper transmission and (timely) receipt of online bids by the Auctioneer. What is happening in the hall (for example, with regard to corrections according to Number 2 a) shall be decisive for the auction or its proceedings. Only those bids repeated in the hall are binding. In any case, the bidder is required to provide proof of the submission of the bid. **c) Handling of bids and knockdown** The Auctioneer can reject bids for valid reasons. This applies in particular if, upon the request of the Auctioneer, bidders cannot provide sufficient security equivalent to the value of the bid before the auction. If a bid is rejected, the immediately preceding bid shall remain binding. **d)** The Auctioneer reserves the right to combine or separate lot numbers, offer them out of sequence or knock them down subject to reservation. The lot number is the number under which the items are called in the auction, listed in the auction catalogue, or offered for sale on the open market. **e)** The knockdown shall occur after the highest bidder's bid has been called three times. If several persons have placed the same bid and no higher bid occurs after being called three times, the matter shall be determined by drawing lots. If identical written bids are received, the knockdown will be awarded to the first bid received. If there are doubts regarding whether or to whom the knockdown has been awarded, or if a bid submitted on time was overlooked, or if the highest bidder does not wish his bid to stand, then the Auctioneer can withdraw the knockdown, which thereby becomes invalid, and offer the item for auction once again. Any objections to the knockdown are to be raised immediately, i.e., before the next lot is called. The Auctioneer is entitled to refuse the knockdown for a valid reason. **f)** The estimated price is usually not a limit. The knockdown can also occur below the estimated price. In order to protect the consigned item, the Auctioneer is entitled to award the knockdown to the Consignor below the agreed limit. In this case, the sale is reversed. **g)** If the limit agreed with the Consignor is not reached or there are other valid reasons, the Auctioneer is entitled to award the knockdown subject to reservation. In the event of a subsequent bid at the limit, the item may be knocked down to another bidder or sold to another bidder in a subsequent sale without further consultation. Bids with knockdowns subject to reservation are binding on the bidder for 5 weeks but remain subject to change by the Auctioneer. In particular, any claims of the bidder against the Auctioneer are excluded if the knockdown subject to reservation is not completed. **h)** A bid expires if it is rejected by the Auctioneer, if the auction is closed without the issuance of a knockdown, or if the item is called for auction again. An invalid overbid does not lead to the expiry of the previous bid. **i)** With the knockdown by the Auctioneer the bidder is obligated to accept the item and make payment. Ownership of the auctioned items is transferred to the purchaser only when all claims of the Auctioneer have been settled in full. The risk of accidental loss or deterioration of the item transfers to the purchaser with the knockdown. **j)** The post-auction sale is part of the auction; the interested party submits his order in writing to place a bid with a specific amount. Therefore, the provisions of § 5b of the Austrian Consumer Protection Act (KSchG) with regard to distance contracts do not apply. The Auction Terms and Conditions apply to the post-auction sale accordingly.
4. **Purchase price, turnover tax a)** Deliveries usually are subject to differential taxation in accordance with § 24 of the Turnover Tax Act (UStG), with a premium of 33% being levied on the knockdown total. This premium includes the statutory turnover tax on the total difference. Turnover tax is not shown separately on the invoice. For consignments, e.g. from non-Community countries, which are subject to the import turnover tax (marked by * with the lot no.), the invoicing takes place at the standard tax rate with a premium of 27% levied on the knockdown total. The statutory turnover tax is payable on the knockdown total plus the premium. **b)** If it should be necessary to obtain a CITES certificate for the purpose of granting special exemptions from the prohibition on marketing items subject to the endangered species convention, then the costs incurred for this purpose shall be borne by the purchaser. There is no guarantee that a permit will be granted (CITES, endangered species, export). **c)** The purchaser pays half of the statutory resale right according to the scale in § 16 of the Austrian Copyright Act (UrhG), as well as half of the contribution to the Artists' Social Security Fund. **d)** The statutory turnover tax is 20% at present. Items which are marked in the catalogue with a * before the estimated price are subject to the reduced turnover tax of 13% in the event of standard taxation. **e)** If, with the application of differential taxation, goods are delivered to another EU country, then the tax exemption for intra-Community deliveries is not applicable. With export deliveries to non-Community countries, the turnover tax is refunded to the purchaser as soon as proof of export and acceptance has been received by the Auctioneer. **f)** Invoices issued during or immediately following the auction require verification; errors excepted. There will be a charge for a subsequent alteration of the invoice at the client's request.
5. **Due date, payment and default a)** Purchasers taking part in the auction in person must pay the final price (knockdown price plus premium and turnover tax) to the Auctioneer immediately following the knockdown. In the case of purchasers who have placed written, telephone or online bids, the claim is due upon receipt of the invoice. The purchaser waives the assertion of retention rights in connection with other transactions or previous transactions of the current business relationship as well. The purchaser is permitted to offset counterclaims only if they are undisputed or have been recognised by declaratory judgment. If the purchaser is an entrepreneur, he waives the performance refusal right under § 1052 of the Austrian Civil Code (ABGB). **b)** In the event of payment delay, default interest is calculated; for private purchasers (consumers) it amounts to 4% per year and for commercial purchasers (companies) to 9.2% above the basic interest rate per year. If payment is made in a foreign currency, any exchange losses and currency conversion fees are borne by the purchaser. In addition, the Auctioneer can claim damage compensation against the purchaser for culpable breach of obligations. After the second formal reminder, the Auctioneer is entitled to levy a default surcharge equivalent to 3% of the total claim as compensation for damages incurred unless the purchaser proves that no damage occurred or was incurred at a substantially lower amount. If the purchaser should default on payment, the Auctioneer can withdraw from the contract after setting a grace period of two weeks and, instead of the flat-rate for damage, demand compensation for the specific damages incurred. These damages may also be calculated such that the item is re-auctioned at another auction with a limit determined at the discretion of the Auctioneer, exercising all due care and diligence, and the defaulting purchaser is liable for the lower proceeds in comparison with the previous auction and also for the costs of the repeat auction including the commission and expenditures of the Auctioneer. The defaulting purchaser shall have no claim to any additional proceeds in this case. His rights from the previous knockdown awarded him will expire with the new knockdown. All claims of the Auctioneer against the purchaser will be due immediately in the event of default.
6. **Pick-up, shipping and storage a)** The purchaser is obliged to take receipt of the items immediately after the auction. Purchasers who have participated in the auction in writing, by telephone or online must pick up the items 14 days at the latest after receipt of the invoice. However, auctioned items will be released when all claims have been settled in full. **b)** If the purchaser is late with the acceptance, the Auctioneer is entitled to store the property items at its own location or that of a third-party at the expense and risk of the purchaser. The purchaser shall also bear the costs of any necessary insurance. A reimbursement of costs up to €6.00 (plus VAT) per item and per day or the storage company rate will be charged for the storage. The purchaser reserves the right to prove that costs have not been incurred, or not incurred in this amount. The date for the release of the stored items shall be agreed with the Auctioneer or his designated third party. **c)** The shipment, packaging, and insurance of auctioned items shall be made at the expense and risk of the purchaser; the Auctioneer only serves as the intermediary for these services. Shipping orders will be carried out only if the Auctioneer or the company entrusted with this task has received the shipping order signed by the purchaser and the calculated shipping costs and all other claims of the Auctioneer have been paid.
7. **Liability** The Auctioneer shall only be liable for damages of the bidder/purchaser if said damages are due to the intentional or grossly negligent infringement of obligations by a legal representative or agent of the Auctioneer, or if the bidder/purchaser's injury to his life, body or health is due to the intentional or grossly negligent infringement of obligations by the Auctioneer.
8. **General a)** These Terms and Conditions, which are accepted with participation in the auction, govern all legal relationships between the bidder or purchaser and the Auctioneer. The bidder's or purchaser's general terms and conditions shall not be applicable. Verbal ancillary agreements do not exist. Changes must be in writing to be valid. **b)** Place of fulfilment and jurisdiction, if such can be agreed, is Salzburg exclusively. Austrian law shall apply exclusively. The United Nations Convention on Contracts for the International Sale of Goods (CISG) does not apply. **c)** If one or more provisions of these Terms and Conditions of Sale for Auctions is invalid in whole or in part, this shall not affect the validity of the remaining provisions. **d)** If the Terms and Conditions of Sale for Auctions are available in several languages, the German version shall be authoritative exclusively. The Auctioneer assumes no liability for incorrect translations.

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Publicly appointed and sworn auctioneer

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