

Conditions of Sale of the firm Schmidt Kunstauktionen Dresden OHG

(This translation is for your guidance only. Please note that only the German version of these conditions of sale is legally binding.)

1. Validity

The following terms and conditions are accepted by a personal, written, telephonic or electronic participation in the auction, subsequent sale or sale by private contract. The terms and conditions are also valid for subsequent sale or sale by private contract/public sale.

2. Auction on commission, Inspection prior to the auction

1. Schmidt Kunstauktionen Dresden OHG (herein after referred to as "the auction house") holds auctions and the subsequent sale as an agent on his own behalf and – with a legal agreement – for the account of the depositor. Exceptions are objects owned by the auction house, which are marked separately. The depositor shall remain unnamed.

2. All objects or items presented for the auction may be viewed and inspected prior to the auction. Visitors are liable for any damage they cause on objects and interior.

3. Estimated Prices

The prices named in the catalogue are non-binding estimated prices and are merely recommendations towards the market-value of the displayed items.

4. Condition of items, Guarantee

1. Objects to be auctioned may be viewed and inspected prior to the auction. They are, without exception, used and of some age and are sold "as is". Only such faults and damage to the objects which essentially impair the artistic or commercial value of the work will be included in the catalogue. In every respect actual condition of the goods at the time of purchase is agreed specification in the sense of judicial regulations.

2. All written and oral descriptions as well as all illustrations of objects only serve as information for the bidder, they do not constitute a representations or warranties of the object's composition. The auction house gives no warranty on any description regarding the objects age, authenticity, source, condition, measurement, weight. The auction house cannot guarantee the completeness of magazines, series or convoluted documents nor is there a warranty on obvious or hidden deficiencies of the objects.

3. Faults and damage to objects shall be claimed within five days after receiving the goods and within four weeks after the auction at the latest.

4. The auction house reserves the right to correct catalogue entries prior to the auction. These corrections will either be displayed as written notice at the place of the auction or will be announced by the auctioneer immediately before the auction of the object concerned. The corrected entries replace any former descriptions.

5. Bidders, Bidding numbers

1. Bidders taking part in the auction in person may receive bidding numbers during inspection of objects prior to the auction or prior to the beginning of the auction. Bidders unknown to the auction house who personally attend the auction are asked to show proof of their identity. They may further be asked to either make a cash deposit prior to the auction or to submit a recent creditworthiness confirmation issued by their bank.

2. Every bidder will be regarded as appearing under his own name and shall be deemed to act as principal. The bidder is personally liable, including any misuses of his bidding number.

3. If a bidder wishes to participate in the auction as a representative, he shall be required to submit the name and address of his principal as well as written legislation of his power of attorney. In cases of doubt the bidder shall buy in his own name and for his own account.

6. Operating procedures

1. The auction house shall reserve the right to combine and separate lot numbers and to offer or withdraw the aforesaid outside the notified sequence.
2. The auctioning of an object follows the designation of the catalogue number and will usually start below the estimated price as given in the catalogue. In general, the auctioning runs in steps of 10% of the last bid. The auction house shall reserve the right to auction at other intervals which are binding for the bidder. The knockdown shall be made following a triple call to the highest bidder. In the event of equally high bids the decision on the knock-down is in the auction house's estimation. In the event of doubts about the last bid or the knock-down the object is called again. A formally announced bid remains valid until the end of the auction.
3. The auction house is entitled to refuse a bid or to knock-down subject to reservation. This especially applies if a bidder unknown to the auction house fails to present financial credentials no later than at the beginning of the auction.
4. If the limit agreed with the depositor is not reached, the auction house shall be entitled to make a knock-down subject to reservation. In that case the bid remains obligatory for four weeks after the fall of the hammer. Does the depositor not agree with the reserved knock-down or another bidder makes a bid corresponding to the limit, the object may also be knocked down without consultation with other bidders. In the case of knocking down an object subject to reservation the bidder is bound to his offer for the period of four weeks. If the bidder does not receive unconditional acceptance of his offer within this period of time, the bid expires.
5. Should, for whatever reason, lots remain unsold at the auction, the auction house reserves the right to dispose of these by private treaty after the auction at their sole discretion and subject to any reserve prices agreed with the vendor unless subsequently amended by the vendor.

7. Implementation of written and telephone bids

1. Written or telephone bids can be made subject to reservation with the auction house's agreement. These bids must be received by the auction house at least 24 hours prior to the commencement of the auction, using the bidding slips supplied by the auction house. The name of the bidding person or company, complete address, telephone number and signature must be given for a valid submission of a written or telephone bid. The bidding slip includes the lot number and catalogue's description of the object. In case of doubt the lot number is authoritative; irregularities in a written or telephone bid encumber the bidder. The bid names the bid price, which is understood as the knock-down price excluding surcharge, tax and customs duties. Written bids by purchasers not known to the auction house are only accepted when financial credentials are provided by the bidder prior to the beginning of the auction. The auction house gives no warranty for the processing of absentee bids or telephone bids.
2. Written bids are treated as bids made during the auction. In the case of identical written bids for one object the knock-down shall be made to the first bid received when there are no higher bids. If the written bids have been received on the same day the purchaser shall be determined by draw. Written bids shall only be utilised by the auction house in the amount required to overbid another bid which has been made.
3. Telephone bids are accepted for lots from 250,- Euro onward. Telephone bidders shall be contacted by the auction house before the desired lot-number is called. The auction house shall assume no liability for establishing and maintaining the telephone connection. The auction house accepts six telephone bids maximum per object, in the order bidding forms have been received.

8. Purchasing price, buyers premium, taxes

1. The purchasing price is made up of the knock-down price and a buyers premium of 21 %, including value-added tax. Value-added tax is not shown separately on the invoice (Differenzbesteuerung). ("Difference taxing" has been introduced in 2001 and is applicable on second hand objects and antiques from private consigners. The V.A.T. is only raised upon the buyers premium.)
2. With objects that are marked as normally taxed, the purchasing price is made up of the knockdown price plus a premium of 17,65 % and the statutory value-added tax of currently 19% or 7% (reduced value-added tax for paintings, drawings, sculptures, ect.)

3. In order to comply with the German Copyright Act (UrhG), the Auctioneer has to pay a levy to the "Verwertungsgesellschaft Bild-Kunst" association on sale proceeds for all original works of fine art incorporated in 1900 (with the exception of photographs, reproductions and serigraphs, and posthumous castings of sculptures). Buyers pay one half of that levy (i.e. 2.0 % of the award price).

9. Knockdown, transfer of ownership, conditions of payment

1. The purchase price is due with the knockdown and is payable to the auctioneer in cash or by a confirmed cheque, if the buyer is personally present at the auction. In case of buyers who have submitted written or telephonic bids, the amount due is payable upon receipt of the invoice.

2. Ownership of the auctioned property only passes to the buyer when all claims of the auctioneer have been settled in full.

3. Legal tender is the Euro. Payment for purchases may be made in or by cash, confirmed cheque, wire transfer or Credit Card (on request).

4. The auctioneer is not obliged to accept foreign currency. In case of acceptance of foreign currency the buyer bears all decreases and expenses.

5. Due to the excessive pressure on the accounts department during and immediately after the auction, all invoices made out at the time shall be subject to further scrutiny and correction. Errors excepted.

10. Delay of payment, compensation

1. The buyer is obliged to pay the purchase price within two weeks after date of invoice, otherwise he will be in delay. In the event of payment delay the auctioneer is entitled to levy a default surcharge of 1% per month. This excludes any exchange rate losses, losses of interest and costs of legal action.

2. Is the buyer in delay, the auctioneer can after further 7 days demand fulfilment of the purchasing contract or can cancel the purchase and demand compensation due to non-fulfilment. A month after delay the auctioneer is entitled to disclose the identity of the purchaser to the consignor.

3. The auctioneer is entitled to collect in addition to his own claims the consignee's claim against the buyer in court or out of court.

4. If the auctioneer demands compensation due to non-fulfilment, he is entitled to re-auction the objects at some future point in time. Upon knockdown the rights of the buyer arising from the previous award expire. The buyer is liable for any shortfall, has no claim to any surplus receipts and is not admitted to any further bid.

11. Shipping, transport

1. The buyer is obliged to take receipt of the property items immediately after auction. Auctioned objects shall be handed over only after complete payment has been effected.

2. Upon the buyer's written instruction to the auctioneer concerning dispatch of the object in question, the auctioneer shall organise appropriate transport to the buyer at the buyer's cost and risk.

3. Upon handing over of the property to the buyer or to any person charged with the transport, the risk of fortuitous loss or fortuitous deterioration of the property passes to the buyer simultaneously.

4. The buyer is obliged to take over the property or to give shipping instructions within ten day after date of invoice, otherwise he is in delay.

5. In event of delay with taking over the property the auctioneer is entitled to store the property items at the cost and risk of the purchaser at a default surcharge of 2,5% of the purchase price per month. The buyer will also bear any other or higher costs for storage at a storage company.

12. Final clauses

1. The place of performance and jurisdiction is Dresden, as far as this can be agreed.

2. The law of the Federal Republic of Germany shall apply exclusively. If the buyer is a registered trader or if he has no general legal venue in Germany, the legal venue is Dresden. The UN Convention on Contracts for the International Sale of Goods (CISG) does not apply.

3. Verbal supplementary agreements do not exist.

4. If any part of these Conditions of Sale is for any reason invalid or unenforceable, the rest shall remain valid and enforceable.

5. Sale of objects of the Third Reich will only take place for scientific or educational purposes.

The managers



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Art historian, auctioneer



James Schmidt
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