

Standard Auction Terms and Conditions

§ 1 Area of application, auctioneer's authorization, applicable law, place of execution and adjudication, partial invalidity

1. These General Terms and Conditions of Business shall apply to viewing and auctioning and in all relevant respects to free sale as well.
2. Goods are auctioned on behalf and for the account of the seller. The auctioneer is authorized to undertake negotiations and legally binding transactions as the seller's representative, or on his own behalf, that are necessary for or connected with the transfer of ownership and/or possession of the goods to the buyer at auction, for collecting the outstanding account, and for enforcing collection through the courts if necessary.
3. All legal relationships arising from the auction shall be subject to the laws of the Federal Republic of Germany, to the exclusion of international civil law.
4. The place of execution and adjudication shall be Düsseldorf as the auctioneer's place of business if the buyer at auction is a registered trader, a legal entity under public law, or special assets under public law.
5. Should any individual provisions of the contract prove to be invalid, the remainder of the contract shall retain its validity.

§ 2 Procedure

1. When the number in the auction catalogue (the lot) has been called, the auction starts with the placing of bids. The highest bidder will win the auction if no higher bid has been placed even after three calls have been made. Any higher bid made at the same time as or after the third call (stroke of the hammer) will be ignored. The highest bidder has no legal right to purchase the goods. Any bidder shall be bound by his bid if any later higher bid is invalid or is rejected by the auctioneer. The level of any necessary minimum bid (the reserve price) shall be set by the auctioneer at his own free discretion.
2. The auctioneer shall be authorized at any time to change the sequence shown in the catalogue in which the objects are to be auctioned, to split, combine, or withdraw lots, and to reject bids that are regarded as too low. The auctioneer shall also determine at his own discretion the amounts by which bids are to rise and the acceptance of the highest bid for the auction as a whole or for individual objects at auction. If more than one bidder places a bid for the same amount at the same moment, the auctioneer shall determine the winning bid. The auctioneer can reject any bid without having to state the reason.
3. In any case of dispute or doubt the auctioneer's decision shall be solely decisive as to the validity of the highest bid. The auctioneer can if necessary cancel the highest bid and offer the object again.
4. The auctioneer can accept a final bid subject to the seller's consent. In that case the bidder shall be bound by his bid for 48 hours or of any other period of time that may have been agreed. The final bid shall take effect when the seller sends written notification that he has given his consent to the address stated by the bidder.
5. Potential buyers who are not present at the auction can enter a written bid, and this shall be placed on the equal footing as any bid placed by any of those who are present. Written bids shall only be accepted if they reach the auctioneer before the auction starts and are accompanied by a bank-confirmed cheque for the amount of the bid. The auctioneer shall be free to decide at his own discretion whether to admit a bid under any other conditions.
6. The final bid shall represent the net prices. An auctioneer's commission of 15 percent resp. 18 percent by Webcast shall be added to this net price. The statutory Value Added Tax shall be levied on the net price. The aggregation of the net price, the commission, and the VAT shall constitute the final price.
7. The winner of the auction shall be under an obligation to state his name and address.
8. The purchase contract shall be created between the bidder who wins the auction and the seller of the relevant lot.

§ 3 Limitation of legal liability

1. The objects at auction are used and shall be offered and sold in the state in which they find themselves at the time of the auction, without any guarantee or liability in respect of visible or hidden defects. The auctioneer shall prepare the descriptions in the catalogue to the best of his knowledge and belief but shall not accept liability for their being correct. The descriptions in the catalogue shall not be construed as data on the condition of the goods.
2. Buyers shall enter the auction rooms, storerooms, and open-air site at their own risk for the purpose of inspecting or collecting the goods or attending the auction. Smoking is prohibited. Buyers shall comply with instructions given by the staff.
3. The auctioneer shall bear no legal liability unless he has acted with intent or in gross negligence, has violated an essential contractual obligation, or caused personal injury. Except in cases of intent or gross negligence, liability shall be limited to such damage to property as could have been seen as a possible consequence of the violation of the contract.

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§ 4 Transfer of risk, buyer's obligation to collect goods

1. The risk of accident loss of, damage to, or deterioration in the goods shall be transferred to the buyer at the moment when his bid is accepted. The same shall apply, in the case of free sale, at the moment when the parties enter into the contract.
2. The buyer shall collect the auctioned goods from the place at which they are located and shall be under an obligation to collect all auctioned goods within the set time as stated in the auction catalogue or internet calling the auction. If the buyer fails to collect the goods within the set time he shall bear any resultant costs.
3. The auctioned goods shall be dismantled and transported away at the buyer's cost and risk. The buyer shall bear liability for any injury, loss, or damage caused in the process by himself or any party acting on his instructions. In the case of objects that can cause injury to persons and/or damage to third parties' property, the auctioneer shall reserve the right to require a deposit against any such eventuality. The items involved and the amount of any deposit shall be announced during the auction.
4. When collecting the auctioned objects the buyer shall be under an obligation to exercise special care and to ensure the work is carried out professionally.
5. Unless anything to the contrary has been agreed, the auctioned object shall not be handed over until the final price has been paid in full.

§ 5 Retention of title

Title to the auctioned object shall be transferred subject to the provision that the final price is paid in full.

§ 6 Payment, liability for the final price, liability in the event of arrears of payment or collection, ban on off-set

1. The final price shall be due for payment when the winning bid is accepted. Invoices issued at the auction shall be subject to the reservation of later review and possible correction.
2. The final price shall be defined as the price for the goods before dismantling and before loading onto any vehicle, ex-foundations, store, or location.
3. Any bidder who buys an object at auction as a businessman acting on behalf and for the account of his client shall bear liability as an absolute guarantor for his client's fulfillment of his obligations.
4. The buyer shall pay the final price on the day of the auction in cash or with a crossed cheque irrevocably confirmed by a bank and made out to the auctioneer. Cheques are accepted as an aid to fulfillment and their acceptance shall have no impact on the retention of title. The auctioned object shall not be handed over until the cheque amount has been credited irrevocably to the auctioneer's account.
5. Should the buyer fall into arrears of payment of the final price, the outstanding account shall attract interest, calculated from the date of arrears, at a rate 5 percentage points above the basic rate of interest at the material time. If the buyer is not a consumer, the rate of interest shall be 8 percentage points above the basic rate of interest at the material time. The right shall be reserved to raise a claim in respect of further losses caused by the arrears.
6. In the event of the buyer falling into arrears, the supplier shall also be entitled to set the buyer an appropriate extension period for make or complete payment. If this extension period expires to no avail, the supplier shall be entitled to cancel the contract and/or demand damages in lieu of discharge of contract. The supplier shall then be free to make other use of the object. The buyer shall not be entitled to make a new bid for it.
7. If the supplier demands damages, the buyer shall also compensate him for the cost incurred in rearranging the sale of the object and for having to accept any lower price for it. The buyer shall have no claim on the grounds of any higher price being achieved.
8. Buyers of non EU states must pay the VAT to Surplex (the auctioneer). After receipt of the stamped export documents as verification for the export of the goods SURPLEX refunds the VAT.
9. If the parties to the contract of sale are resident in EU Member States and can submit an officially confirmed VAT Identification Number, the VAT shall be reimbursed as soon as properly stamped original export documents have been received.
10. The buyer shall not offset his payment with any counter-claims unless they have been acknowledged in writing or declared legally final and absolute.