

Conditions of Sale for the Online Portal (online shop and online only auctions)

§ 1 GENERAL

1. These conditions of Sale apply to the use of the internet portal operated by KARL & FABER Kunstauktionen GmbH, Amiraplatz 3, 80333 Munich (hereinafter referred to as KARL & FABER) or the internet portal operated by a service provider commissioned by KARL & FABER (hereinafter referred to as the online portal) as well as the contracts concluded via this online portal.
2. The Internet portal is operated by KARL & FABER or by a service provider commissioned by KARL & FABER and can be accessed at karlunfaber.de.
3. KARL & FABER operates an online shop on this online portal. In this online shop, KARL & FABER offers works of art for sale as commission agent in its own name for the account of the unnamed consignors; works of art owned by KARL & FABER (own goods) are specially marked with "**". These so-called online-only auctions are pure sales promotions and are neither publicly accessible auctions in accordance with § 312 g (2) No. 10 of the German Civil Code (BGB), nor classic auctions pursuant to § 34 b of the German Industrial Code (Gewerbeordnung), § 156 BGB. For these classic auctions, which are also traditionally also carried out by KARL & FABER, other/special own auction conditions shall apply.

§ 2 CUSTOMER ACCOUNT

1. The customer requires an account at Invaluable and bids via the corresponding online platform, regardless of whether he has a customer account at KARL & FABER. Access to the online shop and participation in the online-only auctions requires the registration of a customer account. When entering the personal data required for registration, the customer is responsible for providing this data completely and truthfully. The data entered is transmitted by clicking on the "Register" button. Registration and activation of the customer account will be confirmed to you by e-mail.
2. There is no legal claim to the activation of a customer account; KARL & FABER is free to accept or reject an activation.
3. Each customer may maintain only one customer account at a time.
4. The customer can delete his customer account at any time.
5. Access to the customer account is granted by entering a user name and the personal password chosen by the customer. This access data is confidential; the customer may not make this access data accessible to unauthorised third parties. Should the customer have the suspicion or the indication that an unauthorised third party may have gained knowledge of the current access data, the customer must immediately inform KARL & FABER in writing.

§ 3 CONCLUSION OF CONTRACT

1. The presentation of a work of art on the online portal does not constitute a binding offer to conclude a sales contract.
2. KARL & FABER sets a starting price for each work of art presented in an online-only auction as well as a deadline within which purchase offers for this work of art can be submitted (hereinafter referred to as the Offer Period).
3. The submission of a purchase offer by the customer takes place by transmitting a purchase price offer via the corresponding function on the online portal. A submitted purchase offer is binding for the customer.
4. A purchase offer made by the customer will be confirmed immediately by e-mail. Such an e-mail does not constitute a binding acceptance of the offer.
5. After expiry of the Offer Period or in the event of premature termination of this period by KARL & FABER, KARL & FABER shall accept the purchase offer of the customer from whom the highest purchase price offer was received within the Offer Period. This results in a purchase agreement being created between the highest bidder and KARL & FABER for the work of art in question; the other purchase offers from other customers for this object shall expire.

§ 4 FEATURES: MAXIMUM PRICE AND FIXED PRICE

1. Within the scope of the online-only auction, the customer can immediately state the purchase price he is willing to pay for the work of art (hereinafter referred to as the maximum price) when submitting a purchase price offer. If two customers specify an identical maximum price only the earlier bid will be considered; the customer who submitted the later bid will be informed of this by e-mail.

2. The maximum price is not displayed to other customers; only the current highest bid is always visible.
3. If the customer's maximum price is higher than the current highest bid of other customers for the respective work of art, the customer's purchase price offer shall be increased immediately as far as it is necessary to remain the highest bidder with the Maximum Price bid when submitting further purchase price bids. The automatic increase of the purchase price offer shall take place in the bidding steps specified in the bidding table and shall amount to a maximum of 10% of the last purchase price offer per bidding step.
4. KARL & FABER may offer presented works of art for immediate purchase at a fixed price. In this case, the customer can submit a purchase offer at this fixed price with the consequence that this offer by KARL & FABER already before the end of the Offer Period shall result in a purchase contract for the work of art. In this case, the Offer Period shall end prematurely.

§ 5 RIGHT OF CANCELLATION FOR CUSTOMERS

1. If you are a customer, you are entitled to a right of cancellation in accordance with the statutory provisions. A consumer is a natural person who submits the purchase offer for a purpose that cannot be attributed to either commercial or self-employed professional activity.
2. At the end of these Conditions of Sale you will find a link to the statutory cancellation policy and the cancellation form.
3. If you as a customer make use of your right of cancellation, you must bear the costs of the return.

§ 6 PRICES, SHIPPING COSTS, RESALE RIGHT, DUTY OF THE BUYER TO CO-OPERATE IN ACCORDANCE WITH MONEY LAUNDERING REGULATIONS

1. All prices and purchase price offers in the context of online-only auctions are subject to shipping costs, a surcharge and statutory VAT. The amount of the buyer's premium and the type of taxation is regulated in section 3 below. In addition, for works by living artists or artists who died less than 70 years ago, a levy of 2 % of the sum of the hammer price and the net buyer's premium plus statutory VAT will be charged to compensate for the resale right payable in accordance with Section 26 of the German Copyright Act (UrhG).
2. The estimated shipping costs are listed in the online portal under prices.
3. When purchasing in an online-only auction, the buyer must pay a buyer's premium in addition to the purchase price; this is differentiated as follows: a) For works of art subject to regular taxation (labelled with "R"), the buyer is charged the following premium per individual object: 27% on a purchase price up to and including € 100,000, 21% on a purchase price over € 100,000 up to and including € 500,000 for the amount in excess of this, 16% on a purchase price over € 500,000 for the amount in excess of this. Statutory VAT is levied on the hammer price and the buyer's premium and shown separately. b) If Section 25a of the German Value Added Tax Act (UStG) is applied, the buyer's premium and any other costs include the VAT that is not shown separately. In this case, taking into account the staggering listed under § 3 Ziff. 2 a), the premium shall then be 32%, 27% and 22%.
4. KARL & FABER has the right, in accordance with legal obligations, to ask the purchaser to present a valid identity card, passport or similar identity document and, if necessary, further information to establish the identity of the beneficial owner and to make copies of these for its records and to keep them for 30 years. Beneficial owners within the meaning of the German Anti-Money Laundering Act (GwG) are natural persons under whose control or influence the company is. This includes among others all persons who directly or indirectly hold more than 25% of the capital shares or voting rights in a company or exercise control in a comparable manner. If the bidder is a so-called politically exposed person, the bidder must disclose this. Politically exposed persons within the meaning of the GwG are persons who hold or have held a high-ranking public office at international, European or national level in the last 12 months, as well as their close relatives. The bidder undertakes to cooperate in the fulfilment of this legal obligation.

§ 7 TERMS OF DELIVERY AND PAYMENT

1. KARL & FABER shall only deliver the object of purchase to the customer after receipt of the full purchase price including shipping costs. The delivery period shall be five working days. The delivery period shall begin upon conclusion of the contract and complete payment of the purchase price. Alternatively, the customer shall collect the object of purchase from the business premises of KARL & FABER after full payment of the purchase price and prior agreement of a collection date. KARL & FABER may refuse a collection if this is to take place later than 14 days after receipt of full payment of the purchase price. If a customer fails to his obligation to collect the work of art in due time, KARL & FABER shall be entitled to charge 1% of the lower estimated price of the purchased item per month for storage. After a corresponding request to collect the work of art, the purchaser shall be in default of acceptance. KARL & FABER shall then be entitled to utilize the object after a reasonable period of time in accordance with § 383 BGB.
2. If the customer is a consumer, KARL & FABER shall bear the transport risk; if the customer is an entrepreneur or merchant, the customer shall bear the transport risk.
3. The purchase price and shipping costs are to be paid within two weeks of receipt of the invoice from KARL & FABER by the customer.
4. The customer shall not be entitled to offset against purchase price claims of KARL & FABER or to assert rights of retention unless counterclaims of the customer have been legally established by declaratory judgement or are undisputed or concern notices of defects or counterclaims arising from the same purchase contract. If the customer is an entrepreneur or merchant, he waives his rights under §§ 273, 320 BGB.

§ 8 RETENTION OF TITLE AND DEFAULT OF PAYMENT, CANCELLATION OF THE CONTRACT, WITHDRAWAL IN THE EVENT SUSPECTED MONEY LAUNDERING

1. Ownership to the object of purchase shall not pass to the customer until all amounts owed to KARL & FABER have been paid in full. In the event that the customer has already sold the object of purchase before he has fulfilled all claims against KARL & FABER, he hereby assigns to KARL & FABER all claims arising for the customer from the resale; the customer hereby accepts the assignment.
2. For merchants and legal entities, this retention of title pursuant to No. 1. shall also apply to other claims of KARL & FABER arising from ongoing business relationships, in particular the sale of other objects.
3. If the buyer is in default of payment of the purchase price, KARL & FABER may withdraw from the contract after setting a grace period; if this right is exercised, all rights of the buyer to the object of purchase shall expire and become void. In this case, KARL & FABER shall be entitled to claim damages in lieu of performance. If the item is resold, the original defaulting purchaser shall be liable for the resulting damage, in particular storage costs, loss and loss of profit.
4. In the event of default in payment, the buyer shall owe default interest in the amount of 1% per month, without prejudice to further claims for damages. The purchaser shall have the right to prove lower or no damage on the part of KARL & FABER.
5. If the buyer is suspected of money laundering during the usual checks, KARL & FABER shall be entitled to withdraw from the contract. In this case, the Buyer shall have no right to fulfilment of the purchase contract.

§ 9 WARRANTY

1. All items offered for sale on the online platform are used; the state of preservation depends on age and origin. Complaints about the state of preservations shall only be mentioned in the descriptions of KARL & FABER if, in the opinion of KARL & FABER, they significantly impair the overall visual impression of the item. The absence of information on the state of preservation shall therefore have no explanatory effect and in particular shall not constitute a guarantee or quality agreement in the sense of purchasing law; the same applies to verbal or written statements.
2. The contractually agreed quality of the works of art shall only refer to statements on their authorship. KARL & FABER does not assume any special warranty, from which rights beyond this arise (§§ 443, 477 BGB). Further Characteristics other than the authorship of the offered works of art are not contractually agreed even if the object is exhibited for advertising reasons; this shall only not apply if KARL & FABER expressly assumes a guarantee for a certain characteristic or quality in writing.
3. Frames, mounts, pedestals and similar presentation aids (except display glass) are delivered together with the artwork, but are not part of the artwork and are not subject to the purchase agreement. This does not apply if they form an integral part of the artwork. The purchaser has no (warranty) claim to presentation aids in accordance with point 1.
4. The assertion of warranty rights against KARL & FABER shall become time-barred one year after delivery of the object of purchase.
5. If the buyer proves within one year after delivery of the object of purchase that information about the authorship is incorrect and did not match the accepted opinion of the experts on the day of the conclusion of the purchase contract, KARL & FABER undertakes to assert its rights against the consignor - if necessary also in court. In the event of successful recourse against the consignor, KARL & FABER shall reimburse the buyer for what has actually been obtained by the customer up to a maximum of the total purchase price, provided that no claims by third parties exist in respect of the work of art and the work of art returned to KARL & FABER undamaged.
6. Claims for damages against KARL & FABER due to legal and material defects as well as claims for reimbursement of expenses, loss of profit, indirect damages and expert costs shall be excluded unless they are based on intentional or grossly negligent actions on the part of KARL & FABER (including its vicarious agents), which are

caused by violation of cardinal contractual obligations or concern damages due to injury to life, body or health. This limitation of liability shall apply to the same extent in fa-vour of the bodies and legal representatives as well as the employees and other vicarious agents of KARL & FABER.

§ 10 ACCESSIBILITY OF THE ONLINE PORTAL

1. KARL & FABER shall not be liable for the uninterrupted and fault-free accessibility and usability of the online platform, insofar as KARL & FABER is not responsible for this. This applies in particular to damages and disadvantages arising from the fact that the buyer was unable to submit the purchase price bids or was delayed in doing so due to such a fault, or that these bids were not received or were received late.
2. If no purchase price offers can be submitted at times due to a fault, KARL & FABER may extend the Offer Period by the duration of the fault.

§ 11 EXPORT

Any customs duties and charges or other costs incurred in connection with the export and import of the object of purchase shall be borne by the buyer. It is the buyer's obligation to inform himself about import and export restrictions.

§ 12 FINAL PROVISIONS

1. German law shall apply exclusively. The place of fulfilment and jurisdiction is, as far as legally permissible, Munich.
2. Should one or more provisions of these Conditions of Sale be or become invalid, the validity of the remaining other provisions shall remain unaffected. In this case, the contracting parties undertake to agree a valid provision in place of the invalid provision that comes as close as possible to the meaning and purpose of the invalid provision.
3. These Conditions of Sale govern all relations between the buyer and KARL & FABER. The buyer's general terms and conditions shall not apply. No verbal and ancillary agreements have been concluded. Amendments to these Conditions of Sale are to be made in writing; this shall also apply for relinquishment and waiver of this writing requirement.

Link to the instructions on cancellation and cancellation form:

https://www.karlundfaber.de/_media/2021/03/karlundfaber_widerrufsrecht.pdf

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