



GALERIE KORNFELD · BERN

AUKTIONEN · KUNSTHANDLUNG · VERLAG

GALERIE KORNFELD AUKTIONEN AG

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## TERMS AND CONDITIONS FOR BUYERS

By participating in the auction, the Buyer accepts the following terms and conditions. The German version is binding and prevails.

1. The auction is conducted by order of the consignor ("the Seller"), in the Seller's name, for the Seller's account and in Swiss currency.
2. Galerie Kornfeld Auktionen AG ("Galerie Kornfeld") may conduct auctions classically in the auction hall ("Live Auction") or exclusively digitally via the Internet ("online only auction").
3. Galerie Kornfeld is free to organise an auction at its sole discretion. Specifically, it reserves the right to combine, divide or cancel lots of the auction catalogue, or to change the order in which the lots are brought to auction.
4. In principle, the item is sold to the bidder placing the highest bid. However, Galerie Kornfeld reserves the right, at its absolute discretion, whether or not to accept a bid. Specifically, Galerie Kornfeld reserves the right to refuse or cancel the sale, interrupt or cancel the auction procedure, withdraw the item or reoffer and resell the item at auction. It also has the right to reject a bid.
5. Subject to approval by Galerie Kornfeld, bidders at live auctions can place bids personally at the auction sale or as absentee bidders. For bidders attending the live auction, the following provisions a.–e. apply. For absentee bidders, the following provisions a.–f. apply.
  - a. Bidders attending the auction are required to present an official identification document and obtain a bidding number in good time prior to the auction. Absentee bidders are assigned a bidding number by Galerie Kornfeld. A bidding number is required in order to participate in the auction. Galerie Kornfeld may refuse at its discretion to assign bidding numbers to bidders. By obtaining a bidding number and placing a bid, the bidder accepts and acknowledges these terms and conditions for Buyers.
  - b. Bidders who have not made any purchases from Galerie Kornfeld over the last two years must register no later than 48 hours prior to the participation at the auction by completing the "first time bidder registration" form or by registering on Galerie Kornfeld's website. The registration must be accompanied by a copy of the bidder's passport or an equivalent official identification document and if need be adequate financial references. The signed form and attachments must be sent to Galerie Kornfeld by mail, by fax, by e-mail or submitted online. Galerie Kornfeld may require that bidders provide an advance payment of a reasonable amount. Galerie Kornfeld may refuse a registration at its own discretion and without giving reasons.
  - c. By placing a bid, the bidder accepts a personal obligation as Buyer, irrespective of any declaration at the time of obtaining the bidding number that he or she is acting as the agent of a third party. The agent and the principal are jointly and severally liable for the fulfilment of any and all obligations.
  - d. Galerie Kornfeld reserves the right, acting on its own or on the Seller's behalf, to place bids on behalf of an absentee bidder, or for its own account, or to maintain reserve prices for sale.
  - e. Bids relate to the hammer price. The Buyer's premium and value added tax (VAT) are not included therein (see paras. 8 and 18 et seqq.).
  - f. In the case of absentee bids, a distinction is made between orders in writing and by telephone (cf. paragraph i below) and bids placed during the live auction via Galerie Kornfeld's website or websites of third parties with whom Galerie Kornfeld cooperates for this purpose ("Live-Internet-Bidding", cf. paragraph ii below). If multiple orders containing the same maximum bid are received, and if that amount is not outbid at the auction, the sale is made to the first such bid received.
    - i. Bidders who wish to submit an order in writing or by telephone must send the bid order to Galerie Kornfeld by mail, fax, e-mail or submit the order online via Galerie Kornfeld's website. Orders in writing and by telephone must at least specify the details of the artwork, including the catalogue number and catalogue description (name of artist and title). Orders for written bids must also include the maximum bid in CHF per lot number. Orders for bids by telephone must furthermore specify the phone numbers at which the bidder can be reached at the time of the auction. The forms for such orders can be obtained from Galerie Kornfeld or its website. Orders in writing or by telephone must be received by Galerie Kornfeld by no later than 6 p.m. of the day prior to the respective auction. Galerie Kornfeld reserves the right to disregard orders that Galerie Kornfeld, at its sole discretion, considers unclear or incomplete.
    - ii. Bidders who wish to submit their bids via Live-Internet-Bidding must register in good time on Galerie Kornfeld's website or with the third-party providers for Live-Internet-Bidding. Once they have been activated, they can bid in the live auctions electronically via the websites of Galerie Kornfeld or of the third-party providers. Bids are possible up to the personal bidding limit, which can be increased via the websites of Galerie Kornfeld or of the third-party provider upon request before the auction. Galerie Kornfeld reserves the right to reject registration requests for Live-Internet-Bidding via Galerie Kornfeld's website or via a third-party provider without giving reasons. By participating in Live-Internet-Bidding, the bidder accepts the Terms and Conditions for Buyers of Galerie Kornfeld, regardless of whether he participates in Live-Internet-Bidding via Galerie Kornfeld's website or via a third-party provider.
6. Bids at online only auctions may only be submitted via the digital auction platform provided for this purpose. The verification of the registration for an online only auction may take up to 48 hours. Galerie Kornfeld may ban a bidder from participating in an online only auction even if he or she has successfully registered and logged in. Bids at online only auctions are possible up to the personal bidding limit, which can be increased upon request. Specifications regarding the exact procedure of the online only auctions are included in the "Frequently Asked Questions" for buyers (FAQ) and can be obtained from Galerie Kornfeld or on its website. Furthermore, the provisions of Clause 5 lit. a–f above apply by analogy to online only auctions.
7. To the extent permitted by law, Galerie Kornfeld assumes no liability for unexecuted or improperly executed bid orders, be it absentee purchase orders during live auctions or bids submitted in online only auctions. In particular, Galerie Kornfeld assumes no liability for damage caused by technical transmission errors (e.g. inability to establish or interruption of telecommunication or Internet connection, delays in transmission of online bids, failure of the websites of Galerie Kornfeld or third-party providers, the digital auction platform or specific functions of the websites of Galerie Kornfeld or third-party providers etc.) or due to unclear, incomplete or ambiguous instructions. Regarding the specification of the item in absentee bid orders or online only bids, in case of doubt the description of the artwork and not the catalogue number shall prevail.

8. In addition to the hammer price, the Buyer shall pay a premium (buyer's premium) on each auction lot, calculated as follows:
  - a. on a hammer price up to and including CHF 500,000: 25%
  - b. on a hammer price from CHF 500,001 to 1,000,000: 25% on the first CHF 500,000 and 20% on the difference up to the hammer price
  - c. on a hammer price over CHF 1,000,001: 25% on the first 500,000, 20% on CHF 500,001 to CHF 1,000,000 and 15% on the difference up to the hammer price

Regarding value added tax: see the "Swiss Value Added Tax (VAT)" section below.

9. The Buyer acknowledges that Galerie Kornfeld may also receive a commission (consignor's commission) from the Seller for its own benefit and account. Galerie Kornfeld reserves the right to pay commissions to third parties from its remuneration.
10. In principle, the Buyer's payment is made by way of wire transfer in Swiss currency. Galerie Kornfeld may at any time refuse to accept cash payment without giving reasons and instead insist on payment by wire transfer. Title to the auctioned item passes to the Buyer only upon receipt of payment of the full hammer price and Buyer's premium (including VAT) by Galerie Kornfeld; however, risk and peril pass to the Buyer already upon the striking of the hammer. The auctioned item will be handed over to the Buyer only after payment has been received in full.
11. A purchased item must be collected by the Buyer, at his or her expense, during business hours within 90 days after conclusion of the auction. During that period, the item remains insured by Galerie Kornfeld at the hammer price (with the standard exclusions applicable to art insurance). Galerie Kornfeld may, at its sole discretion, accept written or e-mail orders from the Buyer for shipment of the purchased item. Shipping is performed by order of the Buyer and at his or her expense and risk. If an item is not collected within 90 days, Galerie Kornfeld is entitled to charge a storage fee. In addition to its other contractual and statutory rights, Galerie Kornfeld may also send the uncollected item to the Buyer, at his or her expense and risk, to the last address provided to Galerie Kornfeld or, if that is not possible, deposit the item with a court, sell it privately, or auction it off subject to no reserve price. Insofar as the European consumer protection regulations are applicable, the costs and risk of any rescission and reversal of the contract shall be borne by the purchaser.
12. The invoice for an auctioned item must be paid no later than 10 days after receipt of the invoice. If the Buyer fails to pay or does not do so on time, Galerie Kornfeld, acting on behalf of the Seller, may either demand fulfilment of the purchase agreement or at any time, without setting a time limit, waive fulfilment of the purchase agreement by the Buyer and withdraw from the purchase agreement or demand damages for non-performance; in the latter case, Galerie Kornfeld is also entitled to sell the item, without regard for a minimum sale price, either privately or by auction and use the proceeds to reduce the Buyer's debt. Should the proceeds exceed that amount, the Buyer has no entitlement thereto. Alternatively, in the event of payment arrears by the Buyer of greater more than 60 days, Galerie Kornfeld can disclose the Buyer's name and address to the Seller. The Buyer bears liability toward the Seller and Galerie Kornfeld for all damage arising from non-payment or payment arrears, including the Buyer's premium and any consignment commission.
13. Until all amounts owed are paid in full, Galerie Kornfeld reserves a lien on all of the Buyer's property in its possession. Galerie Kornfeld is entitled to sell such pledged property in accordance with debt collection law or privately (including self-dealing). The plea of prior realisation of pledged property pursuant to Art. 41 of the Swiss Federal Debt Collection and Bankruptcy Act is excluded.
14. The objects are acquired in the condition that they are in upon the striking of the hammer. Prospective buyers have the opportunity to inspect the items prior to the auction and to examine them and bring in experts with respect to the description and their condition. Complaints after the striking of the hammer are not accepted. The descriptions in the auction catalogue are made to the best of Galerie Kornfeld's knowledge and belief at the time of the preparation of the catalogue. However, they do not constitute warranties, and no liability is accepted for the information contained therein. This applies in particular with regard to origin, authenticity, attributions, periods, markings, signatures, dates, condition, and restorations. The Seller and Galerie Kornfeld exclude any and all warranty for defects of title or quality and any and all liability arising from mandate and agency. Expert reports attached to the items or obtained by Galerie Kornfeld are nothing more than expressions of opinion for which any and all liability is excluded. The indicated prices are nonbinding estimates.
15. It is explicitly noted, and the bidder accepts, that video and/or audio recordings and/or internet protocols of the auction may be made for quality assurance or evidentiary purposes. Furthermore, it is explicitly noted and the bidder accepts that video and/or audio recordings of the auction may be transmitted in real time on the Internet for the purpose of holding the same or may be subsequently published for promotional purposes.
16. Regarding the processing of the bidder's personal data, reference is made to Galerie Kornfeld's privacy statement ([www.kornfeld.ch](http://www.kornfeld.ch)). The privacy statement is an integral and binding part of these terms and conditions.
17. The contractual relations between Galerie Kornfeld and the Buyer and between the Buyer and the Seller are governed by the laws of Switzerland. The exclusive **place of performance** and the exclusive place of jurisdiction for those contractual relations is **Bern**.

#### Swiss value added tax (VAT)

18. Galerie Kornfeld charges VAT to the Buyer as due pursuant to the provisions of law and to the regulations of the Swiss Federal Tax Administration. In particular, the following provisions apply.
19. VAT (currently 8.1%) is charged on the Buyer's premium.
20. VAT (currently 8.1%; for books currently 2.6%) is due on the hammer price plus Buyer's premium in the case of items identified by a star (\*) after the estimate.
21. VAT on the Buyer's premium or, as the case may be, on the hammer price plus the Buyer's premium will be refunded if the Buyer provides evidence by submitting the corresponding export declaration form that the item has been exported.