

Conditions of Sale Winefield's Auctioneers



Conditions of Business for Buyers
Winefield's Auctioneers Amsterdam

Clause 1: Definitions

In these general trading conditions, the following terms have the following meanings:

1. Buyer or prospective Buyer: the other party to these conditions.
2. bid: a sum bid by a Buyer or prospective Buyer for a lot or a combination of lots.
3. consumer: a party ("other party") who is a natural person not acting in a professional or commercial capacity.
4. lot: one or more movable items to be auctioned, either with or without an auction number.
5. hammer price: the amount of the highest bid for which the lot is sold by the auctioneer.
6. purchase price: the amount of the highest bid plus 22% for bids made in writing, by telephone or in the auction room – for lots marked with † the premium is 18.18%, excluding 21% VAT – (or a higher or lower percentage announced by Winefield's Auctioneers prior to the auction) as Buyer's premium for Winefield's Auctioneers. A Buyer's premium of 22% applies to LIVE online bids – for lots marked with † the premium is 18.18%, excluding 21% VAT. A Buyer's premium of 22% applies to TIMED online bids – for lots marked with † the premium is 18.18%, excluding 21% VAT. The 22% Buyer's premium includes Dutch VAT.
7. margin scheme: In accordance with the so-called margin scheme, VAT is due only on the Buyer's premium and any other charges. VAT is included in the Buyer's premium referred to in these conditions. Buyers who are eligible to opt for this scheme may ask to have VAT charged on the hammer price as well. The hammer price of lots imported from outside the European Union is always subject to VAT.
8. knocking down: a statement by Winefield's Auctioneers to the Buyer or prospective Buyer by which the purchase agreement is concluded, to the effect that the lot(s) purchased has/have been knocked down to him against payment of the purchase price.
9. auction: the public sale of movable items.
10. vendor: Winefield's Auctioneers or the party instructed by it to auction a lot or a combination of lots.

Clause 2: Applicability

2.1 These general auction conditions apply to all auctions held by Winefield's Auctioneers and to all offers or bids and to all agreements in that context between Winefield's Auctioneers and the Buyer or prospective Buyer. The parties may only depart from these conditions in writing.

2.2 The Consigners' terms and conditions of Winefield's Auctioneers appended to these general auction conditions, which are filed with the Amsterdam Chamber of Commerce under number 34244725, apply equally to agreements to which these general auction conditions have been declared applicable. If and to the extent that the Consigners' terms and conditions of Winefield's Auctioneers are incompatible with these general auction conditions, the provisions of these general auction conditions will prevail.

2.3 By taking part in an auction, a Buyer or prospective Buyer indicates that he is familiar with these general auction conditions and the Consigners' terms and conditions of Winefield's Auctioneers and agrees to them.

Clause 3: General Provisions

3.1 Winefield's Auctioneers is entitled to correct inaccuracies in verbal or written communications made (in an auction or otherwise) by it or on its behalf without Buyers or prospective Buyers being able to derive any rights therefrom.

3.2 Winefield's Auctioneers may declare special auction conditions applicable, in addition to these general auction conditions. Special auction conditions will be communicated to the persons present at the auction before the auction is held, or at least before auction of the lot(s) to which they apply. If

and to the extent that special auction conditions of Winefield's Auctioneers are incompatible with these general auction conditions and/or the general Consigners' conditions of Winefield's Auctioneers, the provisions of the special auction conditions will prevail.

3.3 Buyers or prospective Buyers must register with Winefield's Auctioneers before the start of the auction and must provide proper proof of identity, in default of which Winefield's Auctioneers may refuse them the right to participate in the auction.

3.4 Buyers or prospective Buyers must demonstrate their creditworthiness at the first request of Winefield's Auctioneers and to its satisfaction, in default of which Winefield's Auctioneers may refuse them the right to participate in the auction.

3.5 Winefield's Auctioneers is entitled to make video recordings with images and sound prior to, during and after the auction, to use these video recordings as it sees fit and to disclose them publicly.

3.6 Items not included in the auction description are not part of the items purchased, unless expressly stated otherwise by Winefield's Auctioneers.

Clause 4: Auction procedure

4.1 The preparations for and execution of the auction are determined solely by Winefield's Auctioneers. This means, among other things, that Winefield's Auctioneers determines the course of events prior to and during the auction and is authorised, without giving reasons, to admit or refuse to admit persons to the auction, not to auction one or more lots or to alter lots or the composition of lots, not to acknowledge a bid and to declare it invalid, and to suspend, resume or cancel the auction and/or take other measures it deems necessary.

4.2 All persons are obliged to comply with instructions or directions issued by or on behalf of Winefield's Auctioneers in the context of an auction.

4.3 The Buyer will be given an opportunity to inspect the lots he has purchased prior to their transfer to him. Winefield's Auctioneers is not liable for inaccurate or incomplete descriptions of a lot.

4.4 The auction will take place in the order stated in the auction catalogue. Winefield's Auctioneers is entitled to depart from this order.

4.5 Auction sales are made to the highest bidder, unless Winefield's Auctioneers determines that the auction, or part of it, will take place by Dutch auction. Winefield's Auctioneers is authorised to change the manner in which the auction is conducted at any point during the auction.

4.6 Winefield's Auctioneers is authorised to choose not to accept bids, without giving reasons. Bids must be made by means of a bid form completed (in writing or electronically) for this purpose stating in any case the full forename and surname, date of birth, address and place of residence of the Buyer or prospective Buyer, the lot number on which he is bidding and the price (including VAT, exclusive of Buyer's premium) he is bidding. A Buyer or prospective Buyer is bound by a written or electronic bid, which is deemed to be irrevocable and unconditional. Neither Winefield's Auctioneers nor its employees are in any way liable for damage caused by or in connection with a bid, unless the damage was caused by intent or gross negligence of Winefield's Auctioneers or its supervising employees.

4.7 If an auction is held on the instructions of a vendor, this vendor is entitled to take part in the auction, but is not entitled to bid on the lots he has offered for sale by auction.

4.8 Winefield's Auctioneers is entitled to make bids on behalf of third parties.

4.9 Each bid is deemed to be unconditional and irrevocable. A bidder is deemed to bid on his own behalf and is personally liable for the obligations arising from his bid. This also applies if the bidder declares that he is acting on behalf of a third party.

4.10 If persons bid jointly, or have bid jointly, as a group, they are jointly and severally liable for the obligations arising from their joint bid.

4.11 Winefield's Auctioneers will determine whether an error was made in making a bid such that the bidder will not be held to his bid. Buyers or prospective Buyers cannot derive any rights from the decision of Winefield's Auctioneers in this regard.

4.12 The Buyer or prospective Buyer who makes the highest bid will be deemed to be the Buyer after the items have been knocked down to him. In the event of a difference of opinion between Buyers and/or prospective Buyers, Winefield's Auctioneers will decide in the form of a binding opinion who must be deemed to have made the highest bid, without Buyers or prospective Buyers being able to derive any rights in respect of Winefield's Auctioneers.

4.13 The second highest bidder is obliged to make his bid unconditional for the event that the highest bid is declared invalid, or is not made unconditional, for example because the highest bidder does not comply with his obligations in full or in part, or because the agreement with the highest bidder is not concluded for some other reason.

4.14 The Buyer or prospective Buyer buys the lot(s) "as is", in whatever condition it is/they are when the bid is knocked down. Descriptions of the lots and all information provided by or on behalf of Winefield's Auctioneers is provided to the best of its knowledge, although Winefield's Auctioneers does not guarantee that it is correct. Buyers and prospective Buyers cannot derive any entitlements or rights in respect of Winefield's Auctioneers from the descriptions or other information.

4.15 The purchase agreement is concluded and the risk of the purchased items passes to the Buyer or prospective Buyer when the bid is knocked down.

Clause 5: Payment, security, retention of title; time periods

5.1 The Buyer or prospective Buyer must pay the purchase price immediately after receipt of the invoice(s) from Winefield's Auctioneers in the manner indicated by Winefield's Auctioneers and in the currency indicated by Winefield's Auctioneers.

5.2 Payment must take place without reduction or setoff.

5.3 In addition to the provisions of this clause, Winefield's Auctioneers may include special payment terms in the auction catalogue or on its website. In that case the Buyer or prospective Buyer is bound by the special payment terms. If and to the extent that special payment terms are incompatible with the provisions of this clause, the provisions of the special payment terms will prevail.

5.4 Winefield's Auctioneers is authorised to claim immediate payment of all or part of the purchase price from the Buyer or prospective Buyer on knock down of the purchased items or afterwards, and/or to require that security be provided for his compliance with his obligations towards Winefield's Auctioneers or its client. If the Buyer or prospective Buyer does not comply with this, Winefield's Auctioneers is authorised to choose not to acknowledge the bid and to declare it invalid and to auction the purchased items again, or to knock down the purchased items to the second highest bidder. In that case the Buyer or prospective Buyer is in default and is obliged to reimburse Winefield's Auctioneers for the damage thus caused, without prejudice to the other rights of Winefield's Auctioneers.

5.5 Title to the purchased items is transferred to the Buyer or prospective Buyer at the time of purchase within the meaning of clause 6.1 of these conditions, but not until the Buyer or prospective Buyer has paid the full purchase price to Winefield's Auctioneers as well as any sums due pursuant to default on his part.

5.6 All time periods which the Buyer or prospective Buyer must observe must be regarded as deadlines, meaning that the Buyer or prospective Buyer will be in default with no notice of default being required if such periods are exceeded.

5.7 Without prejudice to any rights the Seller may have, if the Buyer without prior agreement fails to make payment for the lot within 7 days of the auction, Winefield's Auctioneers may in its sole discretion (having informed the Seller) exercise one or more of the following remedies:

(a) store the lot at its premises or elsewhere at the Buyer's sole risk and expense;

(b) cancel the sale of the lot;

(c) set off any amounts owed to the Buyer by Winefield's Auctioneers against any amounts owed to Winefield's Auctioneers by the Buyer in respect of the lot;

(d) reject future bids from the Buyer or render such bids subject to payment of a deposit;

(e) charge interest at 1,5% per month from the Due Date to the date the Purchase Price and relevant Buyer's Expenses are received in cleared funds;

(f) resell the lot by auction or private sale, with estimates and reserves at Winefield's Auctioneers discretion. In the event such resale is for less than the Purchase Price and Buyer's Expenses for that lot. the Buyer will remain liable for the shortfall together with all costs incurred in such resale.

Clause 6: Purchase; termination

6.1 The Buyer or prospective Buyer is obliged to take possession of the items purchased at the time and place determined by Winefield's Auctioneers, and in the absence thereof, within the period stated in the auction catalogue, on presentation of proper proof of identity. The delivery of the purchased items takes place by taking possession of them. The Buyer or prospective Buyer takes possession of the purchased items by collecting them. The Buyer or prospective Buyer cannot take possession until the full purchase price and any other charges due have been paid by him. If the Buyer or prospective Buyer refuses to take possession or fails to provide information or instructions that are necessary for him to take possession, the purchased items will be stored by Winefield's Auctioneers for the risk of the Buyer or prospective Buyer. In that case the Buyer or prospective Buyer is obliged to pay to Winefield's Auctioneers all additional costs, including in any case the costs of storage.

6.2 When taking possession of the purchased items, the Buyer or prospective Buyer must observe the necessary caution and comply unconditionally and in full with the instructions issued by or on behalf of Winefield's Auctioneers. The Buyer or prospective Buyer is liable for any damage caused in the context of taking possession of the purchased items and indemnifies Winefield's Auctioneers against claims of third parties in this regard. The Buyer or prospective Buyer is obliged to provide security to Winefield's Auctioneers immediately on its request for the event that damage is caused in the context of taking possession of the purchased items. No interest will be paid on security deposits paid by the Buyer or prospective Buyer.

6.3 In the event that (among other things) the Buyer or prospective Buyer does not take possession of the purchased items within the time period fixed for this and/or the Buyer or prospective Buyer acts contrary to the provisions of paragraph 2 of this clause, the Buyer or prospective Buyer is automatically in default and Winefield's Auctioneers is entitled to terminate the agreement with the Buyer or prospective Buyer by means of a written statement and/or to sell the purchased items to one or more third parties. The Buyer or prospective Buyer is obliged to reimburse to Winefield's Auctioneers any and all damage caused by his negligence. Once the title to the purchased items has been transferred to the Buyer or prospective Buyer, he can no longer claim termination of the purchase agreement.

6.4 If it is not possible for the Buyer or prospective Buyer to take possession due to circumstances outside his sphere of influence and that cannot be attributed to him (for example, because attachment has been levied on the items by third parties), Winefield's Auctioneers has the right to terminate the agreement by means of a written communication to the Buyer or prospective Buyer. In that case, Winefield's Auctioneers has no further obligations towards the Buyer or prospective Buyer other than repayment of the purchase price.

6.5 It is the Buyer's sole responsibility to obtain any necessary export, import or other permit for the purchases. Winefield's Auctioneers and the Consigner make no representations or warranties as to whether any lot is subject to export or import restrictions or any embargoes. The denial of any permit or license shall not justify cancellation or rescission of the sale contract or any delay in payment.

6.6 It is the Buyer's sole responsibility to comply with local laws regarding duties, taxes and necessary excise documents, if applicable.

Clause 7: Liability

7.1 All property is sold "AS IS", in whatever condition they are during the viewing, without any representations or warranties, express or implied, by Winefield's Auctioneers or the Consigner as to merchantability, fitness for a particular purpose, the correctness of the catalogue or other description of the physical condition, size, quality, rarity, importance, medium, provenance, exhibitions, literature or historical relevance of any property and no statement anywhere. Whether oral or written, whether made in the catalogue, an advertisement, a bill of sale, a salesroom posting or announcement, or elsewhere, shall be deemed such a warranty. Representation or assumption of liability. Winefield's Auctioneers and the Consigner are not responsible for errors and omissions in the catalogue, glossary, or any supplemental material. Winefield's Auctioneers nor the Consigner make no representations and warranties, express or implied, as to whether the purchaser acquires any copy rights, including but not limited to any reproduction rights in any property.

7.2 Winefield's Auctioneers is not liable for damage to persons or property arising or caused prior to, during or after the auction.

7.3 As from the time of knock down of the purchased items to the Buyer or prospective Buyer, Winefield's Auctioneers is not liable for damage caused to, by or in connection with the purchased items, including the loss of the purchased items. The Buyer or prospective Buyer must ensure that the purchased items are properly insured from the time of knockdown.

7.4 Winefield's Auctioneers is not liable for visible or hidden defects in the purchased items. The Buyer or prospective Buyer must investigate this during the inspection prior to the auction as referred to in clause 4.3 of these conditions.

7.5 Winefield's Auctioneers is not liable if the purchased items do not comply with European guidelines.

7.6 The limitations to liability stated in paragraphs 1-4 of this clause do not apply if the damage was caused by intent or gross negligence on the part of Winefield's Auctioneers or its employees.

7.7 The images printed in this catalogue are for illustration purposes only and are not binding for the actual condition of a particular lot. On request we can provide you with additional images and condition reports.

7.8 Wines are catalogued as accurately as possible at the time of this auction catalogue going to press. However, purchasers must take into consideration the natural variations and conditions of cases, labels, ullages, corks and wines. Except as set forth in 7.6 of the Conditions of Sale, Winefield's Auctioneers is unable to accept returns.

7.9 Notwithstanding any other terms of these Conditions of Sale. If within 30 days after the auction Winefield's Auctioneers have received from the original purchaser of any property notice of a claim in writing that any lot is counterfeit or that any crucial statement in the catalogue concerning such lot is incorrect in any material respect, then Winefield's Auctioneers in their sole discretion will decide any such claim as between the Consigner and the purchaser and may cancel the sale and refund the purchase price received.

Clause 8: Legal relationship

8.1 All legal relationships between the Consigner, the Buyer and Winefield's Auctioneers are governed by Dutch law. In the event of differences between the Dutch text of these conditions and any translation into a foreign language, the Dutch version is decisive.

8.2 All Winefield's Auctioneers sales are held under legal supervision of notary Mr. Stephen Iseger.
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