

**\*Notice: The English version of the Terms and Conditions of Sale is provided for courtesy purposes only. In case of any contrast with the Italian version, the latter will prevail.**

## TERMS AND CONDITIONS OF SALE

### 1. DEFINITIONS

(a) Buyer: the natural or legal person making the highest bid accepted by the auctioneer at an auction or purchasing the lot through private treaty;

(b) Total Amount Due: the amount due for the purchase of the lot, in addition to the Buyer's Premium and the Expenses;

(c) Art-Rite: Art-Rite s.r.l., with offices in 20134 Milan (MI) at 5, Via Giovanni Ventura – VAT No. 09626240965, equity capital Euro 250,000.00 fully paid-in, acting on the Seller's behalf.

(d) Urbani Code: Legislative Decree 42 of 22 January 2004;

(f) Buyer's Premium: the consideration due to Art-Rite by the Buyer in connection with the purchase of the lot and calculated in percentage of the Hammer Price, on the basis of the percentage value indicated in the auction catalogue or the Terms and Conditions of Sale, in addition to any other amount due to Art-Rite by the Buyer in connection with VAT or any equivalent tax;

(f) Counterfeit: according to Art-Rite's reasonable opinion, an imitation of a lot offered for sale, not described as such in the auction catalogue, created for the purpose of being deceptive as to its authorship, authenticity, provenance, attribution, origin, source, date, age, period, and that, at the date of sale, had a lower value than the one it would have had if the lot had been

corresponding to the description contained in the auction catalogue. A lot that has been restored or undergone modifications of any kind (including repainting or overpainting) does not constitute a counterfeit;

(g) Personal Data or Data: personal data as defined by Article 4 of the GDPR as amended or supplemented;

(h) GDPR: the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016;

(h) Price: the price at which the lot is sold to the Buyer by the auctioneer at an auction or, in case of sale through private treaty, the price agreed upon by Art-Rite and the Buyer, net of the Buyer's Premium;

(i) Reserve: the minimum (confidential) price at which the Seller has agreed with Art-Rite to sell the lot;

(l) Website: [www.Art-Rite.it](http://www.Art-Rite.it);

(m) Expenses: in connection with the purchase of a lot, all the expenses due to Art-Rite by the Buyer, including (but not limited to) the following: taxes of any kind, packaging and shipment costs, expenses related to the collection of any sums due by a defaulting Buyer, expenses – if any - incurred for the reproduction of the lot, its estimate and/or authentication, the Artist's Resale Right, that the Buyer agrees to bear and that should be paid by the seller under Art. 152, 1<sup>st</sup> Paragraph, Law 633 of 22 April 1941;

(n) Seller: the natural or legal person who is the owner of the lot offered for sale at an auction or by private treaty by Art-Rite, as an agent of the same.

## 2. ART-RITE'S OBLIGATIONS TO THE BUYER

2.1 Art-Rite acts as an agent of the Seller, except in the event that the former is the owner of a lot, either in part or in full.

2.2 Lots are sold with all defects, flaws and description errors. The pictures contained in the catalogues are provided for the sole purpose of identifying the lot concerned.

The Buyer undertakes to examine the lot before the purchase, in order to check if the same is compliant with the catalogue description, and, if the case may be, to request the opinion of an independent expert or scholar, in order to verify its authenticity, provenance, attribution, origin, date, age, period, cultural origin or source, and condition.

## 3. ART-RITE'S AND THE SELLER'S LIABILITY TO THE BUYER

3.1 Any representations provided by Art-Rite, either verbally or in writing, including those contained in the catalogue, reports, comments or evaluations concerning any characteristic of a lot, such as authorship, authenticity, provenance, attribution, origin, date, age, period, cultural origin, source, its quality, including its price or value, exclusively reflect opinions, and can be reviewed, and also changed, by Art-Rite, before the lot is offered for sale.

3.2 Art-Rite and its employees, collaborators, directors or consultants cannot be held liable for any mistakes or omissions contained in said representations.

3.3 Without prejudice to what set forth by clauses 3.1 and 3.2, Art-Rite's liability to the Buyers in connection with the purchase of a lot by the latter is limited to the Hammer Price and the Buyer's Premium paid to Art-Rite by the same.

Except for the case of gross negligence or misconduct, Art-Rite or its employees, collaborators, directors or consultants may not be held liable for acts or omissions concerning the preparation or conduction of the auction or any issue relating to the sale of the lots.

#### 4. SALES BY AUCTION

3. The auction is regulated by the Terms and Conditions of Sale and the Terms and Conditions of Mandate. The Terms and Conditions of Sale can be amended with a saleroom notice posted in the auction room or an announcement made by the auctioneer before the auction begins. In the event that a person, who has been given the possibility of making a bid in connection with a lot, has a direct or indirect interest in the same, such as a beneficiary or a will executor that has sold the lot, a co-owner of the same or any other parties having provided a guarantee in relation to the lot, Art-Rite will include such information in the catalogue.

Estimates published in the catalogue for potential buyers are approximate and lots can reach prices that are both higher and lower than the indicated estimates.

It is always advisable to consult with Art-Rite before an auction, as estimates may be subject to changes. Estimates published in the auction catalogue are not inclusive of the Buyer's Premium and VAT.

Art-Rite may prohibit anyone from participating in some auctions.

The auctioneer, in conducting the auction, starts from a bid that the same deems adequate, in consideration of the value of the lot and of competing bids. The auctioneer can make consecutive bids or in reply to other bids, in the Seller's interest, until the Reserve is reached.

4.2 Written bids are valid only if received by Art-Rite at least 24 hours before the beginning of the auction and sufficiently clear and complete, notably with respect to the lot and the price at which the bidder intends to purchase it. In the event that Art-Rite receives multiple written bids of the same amount on a specific lot, and they are the highest bids made on such lot, the same will be allotted to the bidder whose bid has been received first by Art-Rite. If you intend to make written bids, please fill in the "Bid Form" annexed to the auction catalogue and send it off with the documentation indicated therein

4.3 Bids made over the telephone are valid if confirmed in writing before the auction. Art-Rite reserves the right to record bids made over the telephone and declares that it may not be held liable, at any title, vis-à-vis auction attendees in connection with problems or disruptions affecting the phone service (e.g., interruption or suspension of the connection).

4.4 Art-Rite will indicate on the Website (at least 24 hours before the date of the auction) and/or in the catalogue the auctions where it will be possible to make bids online as well. If you wish to participate in an auction through the Internet, you will be able to make your bids in real time.

Participation in an auction through the Internet is subject to your registration with the Website or with other Websites through which the online bidding service will be provided and the subsequent signing up for the auction at least 24 hours before the auction begins.

Once granted access to the Website as a registered user, you will be held liable for any activities carried out on the Website by using your access credentials.

You will promptly inform Art-Rite of any unlawful use of your password or in case of

loss of the same. In the latter event, Art-Rite will provide you with a new password granting access to the Website, and you will no longer be able to use the previous password for access to the Website or participation in auctions.

Art-Rite does not guarantee that the Website is always operational and that there will be no disruptions when you participate in an auction, or/and that the Website and the relevant server is free from viruses or any other hazardous or potentially hazardous materials. Consequently, except in case of willful misconduct or gross negligence, Art-Rite may not be held liable for any technical problems arising when the auction is under way (e.g. slow browsing speed or disruptions in the server managing participation in the auction through the Internet).

Art-Rite will not be held liable for any damage or inconvenience suffered as a consequence of any improper use of the Website in accordance with this information and the conditions of use of the Website.

You will refrain from using any kind of software or tool affecting or interfering (also only potentially) with the conduct of the auction, and undertake to use the Website and any related applications in good faith and in a proper manner.

4.5 The auctioneer will accept the highest bid by the fall of the hammer, which will be the Hammer Price, and consequently the conclusion of the sale contract between the Seller and the Buyer.

4.6 The auctioneer may, at its sole discretion and at any time in the course of the auction:

- (i) withdraw a lot from the auction;
- (ii) review a sale offer relating to a lot, whenever the same may deem that it contains mistakes and/or could give rise to disputes; and/or
- (iii) adopt any measures that the same

deems adequate to the circumstances at hand.

**4.7** At some auctions, a video screen may be operated. Art-Rite will not be held liable for either the correspondence to the original of the image displayed on the screen and any malfunctions of the video screen.

**4.8** Art-Rite represents that the lot can be declared an object of cultural interest by the Italian Ministry of Cultural Heritage and Activities and Tourism under Art. 13 of the Urbani Code. In the aforesaid case, or in the event that a procedure has been undertaken in order to declare the lot an object of cultural interest under Art. 14 of the Urbani Code, Art-Rite will announce said circumstance before the sale. Should the lot be declared of cultural interest, the Seller will notify the sale to the competent Ministry under Art. 59 of the Urbani Code. The sale will be subjected to the condition precedent that the Ministry does not exercise its pre-emption right within sixty days as of the date of receipt of the relevant notice, or within one hundred and eighty days under Art. 61, 2<sup>nd</sup> Paragraph, of the Urbani Code. In the period when the pre-emption right may be exercised, the lot cannot be delivered to the Buyer in accordance with Art. 61 of the Urbani Code.

**4.9** The Reserve cannot exceed the Minimum Pre-sale Estimate announced or published by Art-Rite, except in the event that the Reserve is expressed in a currency other than Euro, and significant fluctuations have occurred from the date at which the Reserve was agreed and the date of the auction. In said circumstance, unless otherwise agreed between Art-Rite and the Seller, the Reserve will be changed into the corresponding euros amount, calculated on the basis of the official exchange rate of the day immediately preceding that of the auction.

## 5. PAYMENT

Tel.: +39 02 872 15 920  
Fax.: +39 02 872 15 926  
PEC: [art-rite@pec.it](mailto:art-rite@pec.it)

**5.1** The Buyer will pay the Total Amount Due to Art-Rite immediately after the end of the auction.

The Buyer's Premium is in the percentage of 25.00 % of the Hammer Price of the lot, up to a maximum amount of Euro 3,000.00. In connection with any portion of the Hammer Price in excess of Euro 3,000.00, the Buyer's Premium is in the percentage of 23.00%, up to a maximum amount of Euro 500,000.00. With respect to any portions of the Hammer Price in excess of Euros 500,000.00, the Buyer's Premium is in the percentage of 18.00%. The aforesaid percentages are inclusive of VAT or any equivalent tax. In the event that, with reference to a specific lot, the percentages contained in the auction catalogue are different from those indicated herein with respect to the Buyer's Premium, the percentages contained in the catalogue will prevail.

A Value Added Tax (VAT) may be applied to the Hammer Price and/or the Buyer's Premium. Referral is made to the information concerning VAT contained in the "Symbols" section below.

In order to harmonize fiscal procedures between EU Member States, on 1 January 2001 new regulations came into force in Italy, and the margin scheme was also extended to auction houses. Under Art. 45 of Law No. 342 of 21 November 2000, said scheme also applies to sales made under commission contracts entered into with: (a) private individuals; (b) entities subject to VAT that have subjected the transaction to the margin scheme; (c) entities that could not deduct said tax pursuant to Art. 19, 19-*bis*, and 19-*bis*2 of Presidential Decree 633/72 (*i.e.* the sale was made in exemption regime under Art. 10, 27-*quinquies*); (d) entities benefitting from the exemption regime granted to small enterprises in their own country. By virtue of the specific legislation in force, in the aforesaid cases, Art-Rite will apply

the relevant VAT, if any, or the equivalent tax, whenever applicable.

**5.2** The ownership of the lot will be transferred from the Seller to the Buyer only upon payment by the Buyer of the Total Amount Due.

You shall make the payment immediately after the auction, using the following methods: cash, bank draft, cheque, Cash Card or Credit Card (American Express, Visa or Mastercard), Paypal.

Art-Rite can accept single or multiple payments in cash only for amounts up to Euro 2,999.99.

In case of bank transfer, the bank details are the following: IBAN Code: IT53-K-05034-11301-000000011412; SWIFT Code: BAPPIT21680.

**5.3** In case of non-payment or late payment, in full or in part, of the Total Amount Due, Art-Rite may, at its discretion, enforce the payment or terminate the contract under Art. 1454 of the Italian Civil Code, being it understood that the period available for the payment performance agreed therein is of five (5) days, in any case without prejudice to Art-Rite's right to claim damages and sell the lot on behalf and at the expenses of the Buyer, pursuant to Art. 1515 of the Italian Civil Code.

**5.4** In case of non-payment or late payment by the Buyer, in full or in part, of the Total Amount Due, Art-Rite may attribute any payment made to Art-Rite by the Buyer to the Buyer's debt constituted by the Total Amount Due, or any other sum due to Art-Rite by the Buyer and derived from other contractual relations.

**5.5** In case of delay in the payment of the Total Amount Due for a period of over five (5) business days as from the auction, Art-Rite will store the lot in its own premises or

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elsewhere at the Buyer's risk and expenses. Again in case of delay in payment for a period longer than as indicated above, the Buyer will pay interest on arrears to Art-Rite at the 3-month Euribor rate set forth by law plus 2%, without prejudice to Art-Rite's right to claim damages for further damages suffered. The lot will be delivered to the Buyer only after the latter has paid the Total Amount Due, all storage and shipment costs and any other expenses incurred.

**5.6** In case of non-payment or late payment, Art-Rite may reject any bids made by the Buyer or a representative of the same in the course of following auctions or request that the Buyer lodge a sum in cash as security before accepting his bids.

**5.7** Art-Rite may offset any amounts due to the Buyer, at any title, against any sums due by the Buyer to the same at any title.

## **6. DELIVERY AND COLLECTION OF THE LOT**

**6.1** The lot will be delivered to the Buyer at the expenses of the same no later than (5) business days of the date of the sale. The lot will be delivered to the Buyer (or a person duly authorised by the same) only after Art-Rite has received the Total Amount Due.

## **7. TRANSFER OF RISK**

**7.1** Any risk relating to a purchased lot is transferred to the Buyer whenever is the earliest of the following dates: (i) when the Buyer receives the purchased lot, or (ii) when the Buyer pays the Total Amount Due to the Buyer, or (iii) the fifth (5) business day following the sale.

**7.2** The Buyer will be indemnified of any loss or damage occurring to the lot after the sale but before risk is transferred, but said indemnity cannot exceed the lot Hammer Price, along with the Buyer's Premium received by Art-Rite. Except in case of willful misconduct or gross negligence, Art-

Rite may not be held liable for the loss or damage to the frame or the glass containing and/or covering prints, paintings or other artworks, unless the frame or glass constitute the lot sold at auction.

In no circumstance may Art-Rite be held liable in case of loss or damage due to any work carried out by independent experts designated by Art-Rite with the Seller's consent, or the loss or damage caused or originated, directly or indirectly, from:

- (i) changes in humidity or temperature;
- (ii) normal wear and tear or gradual deterioration due to operations on the lots and/or hidden faults and defects (including woodworms);
- (iii) improper treatment;
- (iv) war, nuclear fission, radioactive contamination, chemical, biochemical or electromagnetic weapons;
- (v) acts of terrorism.

**7.3** The packaging and shipment of the lot to the Buyer are made entirely at the risk and expenses of the same, and under no circumstances will Art-Rite be held liable for any actions or omissions of packaging workers or carriers.

## **8. EXPORTATION FROM THE ITALIAN REPUBLIC**

**8.1** The export of artwork outside the territory of Italy is subject to the provisions of Legislative Decree No. 42 of 22 January 2004. The export of artworks outside the European Union is subject to Regulation EEC 116/2009 of 18 December 2008 and Commission Implementing Regulation (EU) 1081/2012 of 9 November 2012. The exportation of a lot outside the territory of the Italian Republic may be subject to authorization.

Obtaining the above-indicated authorization is the responsibility of the Buyer. In case of non-issuance or delay in the issuance of the authorisation (e.g., certificate of free circulation and/or export license), said

circumstance will not constitute a reason for termination or cancellation of the sale, nor justification of late payment of the Total Amount Due by the Buyer.

## **9. APPLICABLE LAW AND JURISDICTION**

**9.1** These Terms and Conditions of Sale are regulated by the Italian law. The Buyer agrees that any dispute that may arise in connection with the application, construction and performance of these Terms and Conditions of Sale will be subject to the exclusive competence of the Court of Milan.

## **10. PERSONAL DATA PROTECTION**

**10.1** Pursuant to Art. 13 of the GDPR, the Auction House informs the Buyer that the Data provided will be processed by the same mainly through electronic, automated and/or video-recording means (using modalities and devices suitable to ensure the security and confidentiality of the Data) for the following purposes: (a) in connection with the fulfilment of its obligations; (b) in order to manage the relationship with sellers and buyers (such as, for example, the management of sales proceeds, invoices and shipping operations); (c) any checks and evaluations of auction sales reports and the risks related to the same; (d) the fulfilment of tax, accounting and legal liabilities and/or orders issued by public bodies, or (e) delivery of promotional and informational materials by the Auction House using automated means, such as by email, facsimile, text messages or MMS; (f) in order to reply to any information requests made by the Buyer, or to any complaints, reports and claims of the same; (g) the verification, exercise or protection of any right in connection with the performance of the sale contract.

**10.2** The provision of Data for the purposes under Art. 10.1, letters (a) – (c) included is optional. However, in case of refusal, the

performance of the sale contract will be impossible.

The legal ground for the processing for the aforesaid purposes is the Auction House's necessity to proceed with the fulfilment of the sale contract. To said end, the Auction House will retain the Data for a maximum period of 10 years from the contract's execution.

The provision of Data for the purpose under Art. 10.1 letter (d) is optional. However, in case of refusal, it will be impossible for the Auction House to fulfil its statutory obligations, and consequently proceed with the performance of the purchase contract. The legal ground for the processing for said purpose is the performance of a statutory obligation by the Auction House. To said end, the Auction House will retain the Data for the time required to fulfil its obligations.

**10.3** The consent to the processing of Data for the purpose under Art. 10.1 letter (e) is optional. However, in case of refusal, it will be impossible to receive promotional and informational materials from the Auction House through automated means, such as by email, facsimile, text messages or MMS.

The legal ground for the processing is your consent. To said end, the Auction House will retain the Data for up to 24 months from their provision.

The provision of Data under Art. 10.1 letter (f) is optional. However, in case of refusal, it will be impossible for the Auction House to meet the Buyer's requests. The legal ground for the processing is the Auction House's legitimate interest to reply to the Buyer's complaints, reports or claims. To said end, the Auction House will retain the Data for the period required in order to reply to any complaints, reports or claims.

The provision of Data for the purpose under Art. 10.1 letter (g) is optional. However, in case of refusal, it will be impossible for the

Auction House to protect its rights, and consequently the same will not be able to proceed with the performance of the the sale contract. The legal ground for the processing is the Auction House's legitimate interest to protect its own rights. To said end, the Auction House will retain the Data for the period required for the protection of its own rights.

**10.4** For the purposes under Art. 10.1, the Data will be processed by the Auction House's employees or consultants as entities in charge of data processing under the direct authority of the Auction House or the data processor designated by the same.

**10.5** The Buyer's Data may also be communicated to:

- (a) any entity (including Public Authorities) having access to personal data by virtue of statutory or administrative provisions;
- b) post offices, couriers or carriers in charge of delivering the lots;
- c) companies, consultants or professionals, if any, in charge of the installation, maintenance, updating and in general the management of the Auction House's hardware and software, or of which the Auction House avails itself to provide its services;
- d) companies or internet providers in charge of sending informational and/or promotional documentation and/or materials;
- e) companies in charge of processing and/or sending promotional and informational materials on behalf of the Auction House;
- f) all public and/or private entities, natural and/or legal persons (legal, administrative and fiscal consulting firms, Courts, Chambers of Commerce, Employment Chambers and Offices, etc.), if such disclosure is necessary or functional to

the due performance of the obligations arising for Auction House under the contract, or the obligations set out by law.

**10.6** The Buyer's Data will not be disclosed, except in anonymous and aggregate form, for statistical or research purposes.

**10.7** The Data Controller is Art-Rite, to which any requests or demands in connection with the processing of the Buyer's Data can be made.

**10.8** The Data will be stored exclusively for the time required to ensure the proper fulfilment of the Auction House's obligations, and in any case only for the period set out by law and as indicated at Articles 10.2 and 10.3. herein

**10.9** Under Art. 13 of the GDPR, the Buyer has the right, *inter alia*, to the following:

- to request, from the Auction House, access to his own Data, including their rectification and erasure, and restrict or oppose to their processing, in addition to his right of portability;
- if the processing is based on a legitimate interest of the Auction House, to withdraw his consent at any time, without prejudice to the legitimacy of the processing activities performed on the basis of the consent given before withdrawal;
- to lodge a complaint before a supervisory authority;
- to obtain information on the existence of an automated decision-making process, including the profiling activity under Art. 22, paragraphs 1 and 4, of the GDPR and, at least in said circumstances, receive significant information on the method adopted, and the relevance and presumable consequences of said processing activity for the data subject.



## 11. ARTIST'S RESALE RIGHTS

**11.1** On 9 April 2006, Legislative Decree 118 of 13 February 2006 implementing Directive 2001/84/EC entered into force, setting forth the right, for authors of artworks and manuscripts and their relevant assignees, to receive a consideration on the price of every sale of the original following the first one (*i.e.* the “Artist’s Resale Right”). The “Artist’s Resale Right” is due only if the sale price is not lower than Euro 3,000.00. The same is calculated as follows: (i) 4% in connection with the portion of price included between Euro 0.00 and 50,000.00; (ii) 3% in connection with the portion of price included between Euro 50,000.01 and 200,000.00; (iii) 1% in connection with the portion of price included between Euro 200,000.01 and 350,000.00; (iv) 0.5% in connection with the portion of price included between Euro 350,000.01 and 500,000.00; (v) 0.25% in connection with the portion of price in excess of Euro 500,000.00.

Art-Rite, being an auction house, is required to pay the “Artist’s Resale Right” to the Italian Authors’ and Publishers’ Association [*Società italiana degli autori ed editori* (S.I.A.E.)].

With reference to each lot, the “Artist’s Resale Right” shall be no more than Euros 12,500. In addition to the Hammer Price, the Buyer’s Premium and other Expenses, the Buyer undertakes to pay the “Artist’s Resale Right”, that the seller would be required to pay under Art. 152, 1<sup>st</sup> Paragraph, of Law 633 of 22 April 1941.

## 12. SYMBOLS

The following list contains an explanation of the symbols used in the auction catalogue.

### o Minimum Guaranteed Price

In the event of a lot marked with this symbol, the Seller has been guaranteed a

minimum price in connection with one or more auctions.

### P Lots owned by Art-Rite

In case of lots marked with this symbol, the property of the same, in part or in full, belongs to Art-Rite.

### SR Without Reserve

If the lots contained in the catalogue are not marked with this symbol, they are subject to a sale with reserve. In the event that the lot is sold without reserve, it will be marked with this symbol.

### Ⓢ Artist’s Resale Right

With reference to lots marked with this symbol, the Buyer undertakes to pay the “Artist’s Resale Right” that ought to be paid by the seller under Art. 152, 1<sup>st</sup> Paragraph, Law 633 of 22 April 1941, in accordance with the amount indicated in the “Artist’s Resale Right” section above.

### I Lot sold by a company, where the Hammer price is subject to VAT.

### TI Lot imported under temporary importation regime pursuant to Art. 72 of the Urbani Code or in connection with which a temporary import has been requested.

August 2018