

Indutax GmbH: auction terms and conditions 2023

1. These general terms and conditions of auction are part of each contract of sale and auction. Through participating at the auction, the buyer accepts the auction terms and conditions. The following terms and conditions are also valid for a free sale of items put up for auction, as well as for all other sales made by the auctioneer. Only natural persons and legal persons with full contractual capacity may take part in auctions, insofar as these persons deal in items of sale while carrying out business or independent activities. Consumers within the meaning of Article 13 of the German Civil Code shall be excluded from taking part in auctions.
2. All items put up for auction will be sold on behalf and for the account of the seller, at respective site with all faults and by exclusion of seller's warranty, and insofar as a newly manufactured item is not in question. The description in the catalogue containing measurements, data and work performance etc. is not binding. We therefore advise you to view thoroughly all items prior to the auction. Liability on the part of the auctioneer for damages resulting from injury to life, body or health shall be excluded, unless this is based on negligent violation of duties on the part of the auctioneer or one of his legal representatives or vicarious agents. Liability shall also be excluded for other forms of damage, unless this is based on gross negligence on the part of the auctioneer or one of his legal representatives or vicarious agents. Following acceptance of the bid complaints relating to patent or hidden defects shall not be entertained. The preceding exclusions relating to warranty shall also apply to specially labelled personal goods (cancelled remainders) put aside for auction. The warranty term for the auctioning and selling of unused goods shall be 1 year following acceptance of the item put up for auction.
3. The auctioneer reserves the right to change the order of the items being put up for auction from that indicated in the catalogue, or to offer individual items together in a package, to split them, or to withdraw items. The auctioneer shall be entitled to exclude certain persons or their agents from the auction.
4. The bidder shall be bound by his bid, while the auctioneer is able to accept a bid subject to the seller's consent. The auctioneer reserves the right to query individual bids or to request that potential buyers make bids. Potential buyers, who are not present at the auction, can enter a written bid. Written bids can only be accepted, if they reach the auctioneer at least one day before the auction starts and are accompanied by a bank-confirmed check for the amount of the bid. The highest bidder will win the auction if no higher bid has been placed even after three calls have been made. The level of any necessary minimum bid (the reserve price) shall be set by the auctioneer at his own free decision. The auctioneer can reject any bid without having to state the reason and also accept a bid subject to the seller's consent. In this case, the bidder shall be bound by his bid for three weeks. Should the bidder not receive unconditional acceptance of his bid within this period of time, then his bid shall expire. Without prejudice to this stipulation, any bid may be rejected for unspecified reasons and acceptance of the bid refused. In this case the bid made directly beforehand shall remain valid and binding. Where any doubts exist relating to the validity of the highest bid, in particular if the person making the highest bid does not wish to have it accepted, or if a doubt exists relating to the awarding of the bid, the auctioneer may put the item to be auctioned up for sale once again. In each case only the auctioneer's decision shall be binding.
5. When the auctioneer concluded the bidding, the buyer is obliged to take and pay the lot. The risk of accident loss of, damage to, or deterioration the goods will be transferred to the buyer at the moment when his bid is accepted. Title to the auctioned object will be transferred subject to the proviso that the final price is paid in full.
6. The final bid represents the net price. An auctioneer's project related commission of **15%** or **18%** will be added to the net price. The statutory Value Added Tax will be levied. The aggregation of the net price, the commission and the VAT will constitute the final price.
7. The person who purchased the goods at auction must pay the purchase price as soon as the bid has been accepted; payment must be made in cash or by cheque. If payment is made by cheque, this must be confirmed by means of a commitment to cash the cheque on the part of a bank permitted to act as a tax guarantor within the Federal Republic of Germany. Should the bid be awarded following submission of a written bid, then the purchase price is due and payable within 5 days following the billing date. The highest bidder shall pay the full purchase price in cash or by check to the auctioneer, immediately after acceptance of the bid. In case of paying by check, the dismantling and removal can only be performed after the check sum has been fully credited.

8. If the parties to the contract of sale are resident in EU Member States, they have to submit an officially confirmed VAT Identification Number, If the parties to the contract of sale are not resident in EU Member States, they have to pay a 19 % security fee, which will be reimbursed as soon as properly stamped original export documents have been received.

9. The buyer has to collect the auctioned goods from the place at which they are located and is under obligation to collect all items within the set time of 3 working days after acceptance of the bid. Dismantling and removal of all items purchased at the auction shall be performed within the fixed period, which is on Monday to Thursday between 08.00 a.m. and 04.00 p.m. and on Friday between 08.00 a.m. and 02.00 p.m. In this respect the buyer's attention is once again expressly drawn to the transferral of risk arising from the stipulations contained in Number 5 of these general terms and conditions of auction. The costs of dismantling and transporting the auctioned items shall be borne by the purchaser and shall take place at his own risk. Costs and risks arising from the dismantling and removal of all items purchased at the auction shall be borne by the buyer. The purchaser shall be legally obliged to accept all auctioned items. If the buyer fails to collect the goods within the set time he shall bear any resultant costs.

In the event of default of payment or failure to collect the auctioned item(s) by the buyer in a timely manner, the auctioneer, after the unsuccessful expiration of a reasonable period of grace granted to the buyer, dismantle and store the auctioned item(s) at the expense and risk of the buyer, or withdraw from the purchase contract and claim damages for non-performance. In the latter case, the auctioneer may auction again. The buyer will no longer be admitted to the new auction, remains for any loss of proceeds the buyer is liable, he has no claim to any additional proceeds.

The removal and, if necessary, dismantling of the auctioned items have to take place on the dates specified by the auctioneer to take place. Otherwise, the auctioneer will charge storage costs at a flat rate of EUR 100.00 per day each individual auction item acquired by the successful bidder.

10. The stay on the auction/inspection terrain during the full transaction period is at own risk. Smoking is strictly forbidden. The instructions from the Indutax GmbH employees must be heeded.

11. If the auction-buyer seriously and finally refuses acceptance and/or payment or is in default with payment of the purchase price, the auctioneer may, at his choice in case that the additional respite of the referring reminder has been effectlessly elapsed, demand fulfilment of the purchase contract or compensation instead of performance. The auction-buyer will be in default, when the period of grace linked with the reminder has expired fruitlessly. If the auctioneer demands fulfilment, he is entitled to the default compensation in addition to the purchase price. This includes, amongst other things, any currency losses, the loss of interest and the cost expenditure for the legal prosecution, as well as the costs of any necessary disassembly and storage of the bought auction goods. Express mention is made here once again of the transfer of risk given by the regulation under number 5 of this provision. Above and beyond this, the auctioneer, instead of demanding performance also has the right, within the scope of compensation payments, to release himself from the duty to perform by auctioning the auctioned item again, §§ 383 (1), 384 BGB (German Civil Code) and demanding the reduced proceeds from the auction-buyer. The rights of the auction-buyer from the earlier knockdown are extinguished by the new knockdown. The auction-buyer is liable for any reduced proceeds, but has no claim to any higher proceeds and will not be allowed to participate in the new auction. Above and beyond that he is deemed as the deliverer in connection with the new auction, with the result that he must pay the usual auction fee in the amount of 18 % of the knockdown sum owed by the auction-buyer/deliverer from the proceeds of the new auction, in the manner of a deliverer. Above and beyond that, the auction- buyer/deliverer must pay the costs incurred in connection with the proceeds from the new auction and cash expenses for transport, storage, insertion and personnel costs for auxiliary staff in advance from the proceeds of the auction. The then remaining proceeds are to be offset per date of the actual payment receipt with the compensation claims in accordance with § 367 BGB. The purchase price claim of the auctioneer must have interest paid at the rate of 8% above the base interest rate from the day of the occurrence of the default, including when cheques or bills are presented. The auctioneer can switch from fulfilment to compensation claim at any time; if he claims compensation due to non-fulfilment, the fulfilment claim will extinguish.

12. 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. insofar as the contractor is a salesman within the meaning of the German Commercial Code. The preceding stipulation relating to the place of jurisdiction shall also apply to legal actions concerning cheques and bills of exchange, as well as to those bidders/purchasers whose place of residence or place of business is located in a foreign country. All legal relationships arising from the auction shall be subject to the laws of Federal Republic of Germany, to the exclusion of international civil law excluding the United Nations Convention on Contracts for the International Sale of Goods of 11 April 1990.

13. Should a regulation contained in the above auction provision be or become invalid or inexecutable for whatsoever reasons, the validity of the remaining provisions shall not be affected, in as far as they remain meaningful. Invalid or inexecutable provisions are to be replaced by valid or executable provisions which correspond with the obvious or presumed intentions of the parties, and which represent an appropriate regulation.