



Going Once, Going Twice - Bound by the Terms

Why fine art bidders should read the auction terms before raising a paddle,
picking up the phone, or clicking “bid.”

Key Takeaway: Fine art bidders should review the auction terms before bidding because New York courts may enforce those terms even when the bidder did not read, notice, or fully understand them before the bid was placed.

At a fine art auction, the winning bid is only part of the deal. The terms of sale may control what the buyer owes, what rights the buyer has, and what remedies may be available after the sale. Under New York law, those terms can bind a bidder even if the bidder never read them—so the safest time to ask questions is before the bid is placed.

New York courts enforce auction terms against bidders

That rule matters because auction terms often address far more than price. They may govern buyer's premiums, payment deadlines, inspection obligations, authenticity issues, remedies, forum selection, and limits on claims after the sale.

New York courts have held that a bidder who places a bid at auction may be bound by the auction's terms of sale, including terms printed in the auction catalog.

Hessel v. Christie's Inc., 399F. Supp. 2d 506, 514 (S.D.N.Y. 2005) (quoting *Csaky v. Meyer*, No. 94 Civ. 8117, 1995 WL 494574, at *1 (S.D.N.Y. Aug. 18, 1995)).

Why the fine print matters

A bidder's failure to read the catalog terms or notices posted at the place of sale generally will not relieve the bidder from being bound by those requirements. Under New York law, conditions of a public sale announced by the auctioneer at the time and place of sale may bind the purchaser, whether or not the purchaser knew of or heard them. *See Hessel, supra*, at 516.

Purchasers, particularly sophisticated or experienced buyers, should ask what terms apply to their bids rather than assume no terms exist. *Id.*

Practical guidance for bidders

Bidder checklist before placing a bid

- Request and review the applicable terms of sale, including catalog terms, online bidding terms, and any posted notices.
- Confirm all costs beyond the hammer price, including buyer's premiums, taxes, shipping, storage, and payment deadlines.
- Ask how authenticity, condition, provenance, attribution, and inspection issues are handled before bidding.
- Check whether the terms limit remedies, shorten claim deadlines, or require disputes to be brought in a particular forum.
- Listen for auctioneer announcements and confirm whether they modify or supplement the written terms.
- If bidding by phone or online, save the applicable terms and any bid confirmations for your records.

In short, bidders should ask questions before placing a bid. Once the auctioneer accepts the bid, the terms of sale may control the buyer's obligations, rights, and remedies.

If you have questions about auction terms, bidding procedures, or rights after a sale, please contact the authors or your regular firm contact.

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