

DEN OTTER

FINE ART

ARTICLE 1 - GENERAL

1. These General Terms and Conditions are applicable to all legal relationships between Den Otter Fine Art, with its registered office at Randweg 80, Rotterdam, the Netherlands and registered with the trade register of the Dutch Chamber of Commerce under number 86353373 (**Den Otter Fine Art**) and the Customer.

2. Any terms to the contrary, or any terms and conditions applied by the Customer, are valid only insofar they have been expressly accepted by Den Otter Fine Art in writing, and only for the legal relationship in respect of which they are accepted.

ARTICLE 2 – CONTRACT FORMATION

1. Any agreement shall be concluded only upon the explicit acceptance of an offer of Customer by Den Otter Fine Art.

2. Under no circumstances is Den Otter Fine Art bound by any statement in a quotation (in Dutch: *offerte*), including, but not limited to, statements concerning the author of an artwork, its origin, date, age, authenticity, source, provenance or condition, unless this statement is incorporated in a written contract. Articles 3 and 4 of these General Terms and Conditions apply to any such statements incorporated in the contract.

ARTICLE 3 – STATEMENTS BY DEN OTTER FINE ART

1. Den Otter Fine Art shall make any statement about any artwork, whether orally or in writing, concerning, for example, the authorship, origin, date, age, authenticity, source, provenance and condition of an Artwork, to the best of its knowledge, with due observance of the rules of expertise and good professional conduct.

2. All statements made by Den Otter Fine Art, concerning, for example, the author, origin, date, age, authenticity, source, provenance and condition of any Artwork, shall be made using the formulas, knowledge and techniques available and generally accepted in the art trade.

3. No statement made by Den Otter Fine Art about any artwork, whether orally or in writing, concerning, for example, authorship, origin, date, age, authenticity, source, provenance and condition of an artwork, shall ever imply any guarantee on behalf of Den Otter Fine Art, unless explicitly stated otherwise in a contract. Unless an explicit guarantee has been given in writing, these statements are of an aleatory nature, as it lies within the nature of the artworks for sale at Den Otter Fine Art - amongst others old master paintings and drawings - that the knowledge about, and qualities of, the artworks may change due to new insights based on later developments in research or technology.

ARTICLE 4 – CONDITION OF THE ARTWORKS

1. The Customer accepts the artwork in the actual state at the time of purchase, or in the state described in the contract, if such is the case. The Customer accepts the qualities of the artwork that were known or reasonably should have been known at the time of the sale. Any deterioration in the state of the artwork taking place after the date of delivery is for the account and risk of the Customer.

2. Condition reports are available upon request.

DEN OTTER

FINE ART

3. The nature of the Artworks for sale at Den Otter Fine Art - amongst others old master paintings and drawings - is such that it is likely they have been the subject of (professional) restoration and/or repair, such as for example re-panelling and re-lining.

ARTICLE 5 – PRICES, PAYMENT AND TRANSFER OF TITLE

1. All prices mentioned are in EURO including value added tax (VAT), unless stated otherwise.
2. A Customer must pay by depositing the amount in the bank account of Den Otter Fine Art.
3. The Customer will not acquire legal title to the Artwork until full payment is received by Den Otter Fine Art, in good cleared funds.
4. Full payment must be made within 14 days after the date of the invoice, unless otherwise agreed in writing.
5. If Den Otter Fine Art does not receive full payment by the due date, it reserves the right to exercise any legal rights it has recourse to. All resulting collection costs, and all losses resulting from the non-payment, including the costs of legal assistance, both in and out of court, shall be for the Customer's account.

ARTICLE 6 – COLLECTION AND SHIPPING

1. Den Otter Fine Art is entitled to retain the artwork until all amounts due to Den Otter Fine Art have been received in full in good cleared funds, and/or until the Customer has performed any other outstanding obligations Den Otter Fine Art can reasonable require.
2. Shipping costs, import and export duties, costs for packing and insurance are for the account of the Customer, unless otherwise agreed upon in writing.
3. Risk and responsibility for the Artwork (including frames) passes to the Customer upon the date of delivery.
4. Artworks that are delivered or made available to the Customer by Den Otter Fine Art, remain the full and unconditional property of Den Otter Fine Art, until Den Otter Fine Art has been paid the full due amount, as per Article 5.4. Den Otter Fine Art reserves the right to retrieve unpaid artworks from the Customer.
5. The Customer shall compensate any and all damage suffered by Den Otter Fine Art due to any acts of disposition by the Customer with respect to artworks under the right of retention described in article 6.1, including the costs for retrieval, and the Customer shall cooperate with any retrieval of unpaid artworks by Den Otter Fine Art.

ARTICLE 7 – CONSIGNMENT

1. In some cases, Den Otter Fine Art acts as an agent, selling (an) artwork(s) on behalf of a Seller or Sellers (Consignment). In these cases, Den Otter Fine Art can only transfer legal title of the Artwork(s) after consent is given by the Seller or Sellers.
2. The Customer will not acquire legal title to the Artwork(s) until the consent mentioned in article 7.1 is obtained by Den Otter Fine Art, and the selling price is paid in full.
3. In case of consignment as described in article 7.1, the Customer has the right to withdraw from the sale during 14 days upon delivery of the artwork.
4. Den Otter Fine Art undertakes to keep the artworks it is given in consignment with due care and professional diligence.

DEN OTTER

FINE ART

ARTICLE 8 - LIABILITY

1. Den Otter Fine Art will be liable only in case of intentional violation of, or gross negligence in the execution of the agreement.
2. As from the moment when the artwork is no longer the property of Den Otter Fine Art or the Seller(s) described in article 7.1, Den Otter Fine Art no longer has any responsibility for damage or defects to the Artwork caused through the fault, or by the actions or omissions, of the Customer or of third parties, or by exterior causes.
3. Den Otter Fine Art shall not be liable towards the Customer for any loss, damage, or theft – with or without forcible entry – irrespective of the nature or the cause thereof, of an artwork already sold but not yet delivered, except if this loss, damage or theft is covered by the insurance taken by Den Otter Fine Art, or in the case of gross negligence or intention on the part of Den Otter Fine Art.
4. If and insofar as Den Otter Fine Art might be liable towards the Buyer and no insurance taken by Den Otter Fine Art grants cover, liability shall be limited to an amount equal to the purchase sum.
5. This article 8 is without prejudice to any consumer rights and related liabilities following directly from (the Dutch implementation act(s) of) EU Directives 2011/83, 2019/771 and/or 2017/2394 on consumer rights.

ARTICLE 9 – APPLICABLE LAW AND JURISDICTION

1. The relation between Customer and/or other third parties and Den Otter Fine Art shall be exclusively governed by Dutch law.
2. All disputes arising relating to any legal relationship governed by these Terms and Conditions, shall be presided over by the relevant Dutch courts.
3. The location of any sale made by Den Otter Fine Art is set as the Netherlands, and the date of any sale made by Den Otter Fine Art is set as the date mentioned on the invoice.

ARTICLE 10 – RIGHT OF WITHDRAWAL FOR CONSUMERS

1. The following is only applicable to distance contracts and off-premises contracts, between Den Otter Fine Art and Consumers. ‘Distance contract’ means any contract concluded between Den Otter Fine Art and the without the simultaneous physical presence of Den Otter Fine Art and the Consumer, with the exclusive use of one or more means of distance communication in accordance with Article 2 (7) of the Consumer Rights Directive 2011/83/EU. ‘Off-premises contract’ means any contract between Den Otter Fine Art and the Consumer concluded in the simultaneous physical presence of the trader and the consumer, in a place which is not the business premises of the trader in accordance with article 2 (8) of the Consumer Rights Directive 2011/83/EU. A Consumer is a natural person who enters into a contract with Den Otter Fine Art, and is acting for purposes which are outside his trade, business, craft or profession, in accordance with Article 2 (1) of the Consumer Rights Directive 2011/83/EU. Any Customer living outside the EU cannot derive any rights from this Article or the mentioned EU Directive.

DEN OTTER

F I N E A R T

2. When purchasing an artwork, a Consumer has the right to withdraw from a distance contract or an off-premises contract within the meaning of the Consumers Rights Directive 2011/83/EU, without giving reasons, during 14 days. This withdrawal period commences on the day after the artwork is received by the Consumer or a third party on behalf of the Consumer, who is not the transporter.
3. If the Consumer wishes to exercise his right of withdrawal, he shall give notice of this by making any unequivocal statement setting out his decision to withdraw. Risk and burden of proof of exercising the right of withdrawal in accordance with this Article lies with the Consumer.
4. As soon as possible, but in any case within 14 days from the day following the notice outlined in paragraph 4 of this article, the Consumer must return the artwork to Den Otter Fine Art, in the original state and packaging, in accordance with the instructions that are provided by Den Otter Fine Art. The Consumer is liable for any diminished value of the artwork, other than what is necessary to establish nature and characteristics of the Artwork, resulting from handling the Artwork. The costs of returning the Artwork are at the expense of the Consumer.
5. Den Otter Fine Art will not repay the purchase price until Den Otter Fine Art has received the Artwork or the Consumer proves that the Artwork has been returned in exactly the same condition as received from Den Otter Fine Art.