

Auction Terms for Sellers - Corks & Caps

Version 1.0 (2022)

Artikel 1 Terms and Definitions

Capitalized terms used in these Terms of Contribution shall have the meanings given to them below.

Application	an application submitted by Principal.
Auction Consignment Agreement	an order form agreed (electronically) between the Parties purporting to sell the Goods specified therein.
Terms of Contribution	the present conditions including conditions contained in the Auction Consignment Agreement.
Commission	the commission owed by Principal to C&C as a result of the sale of a Lot.
Consumer	a natural person not acting in the exercise of a profession or business.
Corks & Caps of C&C	the entity F.L.C., registered with the Dutch Chamber of Commerce under number 27191857.
Hammer Prize	the price at which the Lot was sold.
High Estimate	the estimated maximum value of an individual Property or Lot as a whole.
Lot	a collection of one or more Goods.
Low Estimate	the estimated minimum value of an individual Property or Lot as a whole.
Purchaser	the natural or legal person who has purchased a Lot.
Principal	the natural or legal person who submitted an Application, and possibly accepted a Auction Consignment Agreement.
Party(ies)	the Parties designated on the Auction Consignment Agreement.
Reserve Price	the minimum price below which the Principal does not want to sell the Lot.
Good	A physical object, such as a bottle of wine.

Artikel 2 The role of C&C

- 2.1 C&C is organizer of (online) auctions at which Lots are offered and auctioned. C&C acts as an indirect representative ("commission agent") of the Principal in the sale of Lots through the auction, unless sales have taken place on the basis of paragraph 2. If C&C acts as a commission agent, this means that the Lots are sold by C&C in the name of C&C, but on behalf of the Principal. Client is hereby principal, and C&C is agent.
- 2.2 C&C shall be entitled, notwithstanding the preceding paragraph, to act as the immediate representative of the Principal when selling Lots. In that case, the Lots will be sold in the name and on behalf of the Principal and C&C will act as an intermediary to bring about the agreement between the Principal and the Buyer.
- 2.3 C&C is independently authorized to choose whether to sell Lots on the basis of paragraph 1 or paragraph 2 of this article. The selection does not require further notice to Principal.

Artikel 3 Submitting an Application

- 3.1 Principal may request C&C to auction Goods and may submit an Application to C&C for that purpose. The application form specifies the information to be provided by the Principal.
- 3.2 An Application may only relate to Goods of which the Principal is the owner, unless the Principal is entitled by the actual owner to sell the Goods (or have them sold). In the latter case, by submitting the Application, Principal declares to be entitled to do so. Upon first request, Principal will provide a copy of permission from the actual owner.
- 3.3 An Application is without obligation for both Parties and its purpose is to allow C&C to make an estimate of, among other things, the value and marketability of the Goods to which the Application relates.
- 3.4 C&C makes every effort to process each Application as quickly as possible. If C&C requires additional information to process an Application, C&C will notify Principal in writing. Consider, for example, the request to provide the original purchase receipts and invoices for the Goods concerned.

Auction Terms for Sellers - Corks & Caps

Version 1.0 (2022)

- 3.5 Upon receipt of the Application, C&C may decide to perform an appraisal on the Goods, assuming that they are in perfect condition. The results will be shared with Principal. Thereafter, the Principal may request C&C to pick up the Goods, unless the Parties agree that the Principal will send the Goods to C&C itself.
- 3.6 An Application may be withdrawn until the Client has requested C&C to collect the Goods or has indicated to send the Goods to C&C, as referred to in the preceding paragraph. If either Party decides to withdraw an Application or otherwise not wish to pursue it further, that Party will notify the other Party in writing as soon as possible.

Artikel 4 Creation of the Auction Consignment Agreement

- 4.1 C&C will carry out a valuation of the actual condition of the Goods as soon as possible after receiving them. C&C is hereby entitled to establish (or have established) the authenticity of the Goods and may take all actions that are customary from a professional point of view for that purpose. C&C will exercise due diligence in doing so. C&C shall not be liable for any diminution in value resulting from such acts, provided that C&C has not gone beyond what is reasonably necessary and customary to ascertain authenticity. C&C is entitled to engage third parties in this regard, at its own expense.
- 4.2 Based on the appraisal to actual condition, C&C prepares a draft Auction Consignment Agreement. The draft Auction Consignment Agreement will be completed by C&C based on, among other things, information provided by the Principal during the Application and any information exchanged by the Parties since Application, and the valuation(s) performed. The draft Auction Consignment Agreement shall hereafter be sent in writing to Principal for review and possible acceptance. Acceptance shall be made in the manner described on the Auction Consignment Agreement. If Principal wishes to make adjustments to the draft Auction Consignment Agreement, Principal may request C&C to do so. C&C is under no obligation to comply with such requests.
- 4.3 The Auction Consignment Agreement establishes product details of the Goods: the Low Estimate, High Estimate, any Reserve Price and any further conditions under which sales of the Goods may be made (think of the subdivision of the Goods into one or more Lots). Establishing a Reserve Price is optional. Principal may seek advice from C&C for this purpose prior to accepting a Auction Consignment Agreement. The Reserve Price is always lower or at most equal to the Low Estimate.
- 4.4 Principal is required to verify the contents of a Auction Consignment Agreement before accepting it.
- 4.5 Principal may accept the Auction Consignment Agreement up to and including the final response date named in the Auction Consignment Agreement. If this response date is missing, then acceptance of the Auction Consignment Agreement must be made no later than one (1) month after the Auction Consignment Agreement issue date. Acceptance after this time does not create any obligations for any Party unless C&C still accepts the concerned late acceptance within a period of up to seven (7) days.
- 4.6 The Principal shall refrain from selling or otherwise encumbering the concerned Goods after the Auction Consignment Agreement is concluded. Principal shall promptly notify C&C of any situation affecting the intended sale of the Goods, including any damage or loss of Goods after the Auction Consignment Agreement is established.
- 4.7 C&C is entitled to cancel a Auction Consignment Agreement already accepted in whole or in part if the authenticity of the Good is still disputed at any later time. The concerned Goods will then be returned to the Principal.

Artikel 5 Distribution of responsibility

- 5.1 If it is agreed that C&C will pick up the Goods from the Principal, or have them picked up, this will be done at the expense of the Principal, unless C&C has indicated otherwise. Upon collection, the Goods shall be the responsibility of C&C from the moment the concerned Goods are handed over by the Principal to C&C or to the third party engaged by C&C. Unless otherwise agreed, collection of Goods from the Principal's premises will take place at an address in the Netherlands (Wadden Islands excluded).
- 5.2 If it is agreed that the Principal shall ship the Goods to C&C, this shall be done at the expense and responsibility of the Principal. The Goods shall be the responsibility of C&C from the moment the Goods are handed over to C&C at the agreed delivery address.

Auction Terms for Sellers - Corks & Caps

Version 1.0 (2022)

- 5.3 C&C shall arrange insurance against loss and damage to the Goods to cover the period that C&C holds the Goods on behalf of the Principal, for example during transport or storage under C&C's responsibility. C&C's liability to the Principal for loss of or damage to the Goods shall be limited to the amount paid out by the insurer concerned. C&C will provide the applicable policy General Conditions at the request of Principal. In the matter of wines, C&C is never responsible for damage occurring before, during or after sale, consisting of, or related to leakage and sinking of corks.
- 5.4 The Principal is and remains responsible to C&C for the authenticity of the Goods and any visible or invisible defects. If C&C is sued in or out of court by the Buyer, the Principal shall indemnify C&C for this on demand. Upon C&C's determination of the non-authenticity of a Good, C&C shall be entitled to refund any purchase price already paid to the Buyer. In such a case, Principal shall be bound to indemnify C&C for this on demand. The concerned Good shall then be returned to the Principal in its then current condition exclusively at the express request and expense of the Principal, without the Buyer or C&C being liable for any depreciation in value of the Good. C&C shall be entitled to set off any amounts owed by Principal against any claims of C&C against Principal.
- 5.5 C&C never acquires ownership of the Goods. Once the Goods are sold and C&C has received full payment from the Buyer, ownership passes from owner onto the Buyer. C&C shall thus reserve title to the Goods to Buyer on behalf of Owner until full payment is received.
- 5.6 The return of Goods to the Principal, for example pursuant to Article 4.7, 6.3, 7.5 and 7.6, shall be at the Principal's expense and risk.
- 5.7 If the Principal wishes to conclude, or has entered into, the agreement with C&C in a capacity other than as a Consumer, the Principal shall expressly inform C&C accordingly. Principal shall bear all possible consequences thereof, in particular the consequences arising therefrom from tax and consumer regulations.
- 5.8 If the Buyer is a Consumer and Principal is not a Consumer, Principal agrees that C&C will honor any legal rights (of withdrawal) of the Consumer, the consequences of which will then be borne by Principal.

Artikel 6 Sale

- 6.1 The solicitation and sale of Lots shall be conducted in a manner determined by C&C. In principle, the sale is by (online) auction by bidding or reverse auction.
- 6.2 Unless otherwise agreed, C&C shall determine the date on which an auction of the Lot shall commence, no later than six (6) months after the Auction Consignment Agreement is established, and the conditions under which the auction shall take place, taking into Account what C&C and Principal have agreed upon.
- 6.3 C&C cannot guarantee that a Lot will be sold. C&C will offer an unsold Lot for sale at least one (1) more time. If a Lot has again remained unsold, both Parties obtain the right to cancel the assignment to sell the Lot. The concerned Goods will then be returned to the Principal, unless otherwise agreed.
- 6.4 If a Reserve Price is set, C&C will not sell the Lot below the agreed Reserve Price. The Lot may therefore be sold in such a case only if at least the Reserve Price is bid for it.

Artikel 7 Compensation and Payment

- 7.1 Principal shall owe C&C a compensation in the form of a Commission. The Commission is named in the Auction Consignment Agreement, failing which the Commission shall be at a rate of ten (10) %. Commission is calculated on the Hammer Price including any applicable tax (VAT).
- 7.2 The amount paid to the Principal is the Hammer Price less the Commission and any other agreed costs such as transportation costs (actual or otherwise).
- 7.3 Payment by C&C to Principal shall be made as soon as possible after C&C receives full payment from Buyer, but no later than thirty (30) calendar days after receipt of full payment. Payment by C&C to Principal shall be made by bank transfer to the IBAN address communicated by Principal to C&C, unless otherwise agreed upon.

Auction Terms for Sellers - Corks & Caps

Version 1.0 (2022)

- 7.4 If Buyer fails to pay the amounts due after a reminder by C&C, C&C shall, after dissolution of the concerned Purchase Agreement, put the Lot back on sale and give prior notice to Principal, which shall then be deemed a second attempt at sale within the meaning of Article 6.3.
- 7.5 Upon notification as referred to in the preceding paragraph, Principal shall acquire the right to request C&C in writing to have the concerned Goods returned to Principal at Principal's expense and risk, without Principal owing any other compensation to C&C. This right shall expire after the expiration of seven (7) calendar days from the day of notification to Principal as referred to in the preceding paragraph.
- 7.6 If, after accepting a Auction Consignment Agreement, Principal decides to withdraw, in whole or in part, the order to C&C for the sale of Goods, C&C shall be entitled, but not obliged, to charge Principal the following costs with immediate effect:
- a) a one-time compensation of 3% of the total Low Estimate specified in the Auction Consignment Agreement, with a minimum of EUR 150; plus
 - b) the actual transport costs for returning the Goods to the Principal, in which case the return shipment will be at the Principal's expense and risk; plus
 - c) if Principal does not provide the necessary cooperation in realizing the return; an amount of EUR 150 per full or partial calendar month of storage costs for as long as C&C holds the Goods due to lack of cooperation.
- 7.7 The fees referred to in the preceding paragraph must be paid by the Principal within a maximum period of fourteen (14) days after assessment.

Artikel 8 Other

- 8.1 The agreement between the Parties and these Terms of Contribution shall be governed by Dutch law.
- 8.2 Any disputes between the Parties shall be settled in the first instance for the district in which C&C has its registered office, unless mandatory law provides otherwise.
- 8.3 Where the agreement uses the term "in writing" or words meaning the same, it shall also include communication by e-mail provided that the identity of the sender and the integrity of the message are sufficiently established.
- 8.4 All amounts communicated in the Agreement, the Auction Consignment Agreement, or elsewhere by C&C are in euros - unless explicitly stated otherwise.