

General Terms and Conditions of the Authentication Board of the Archive Franz West

I. General Terms

1. The Association Archiv Franz West, Annagasse 8/15A, A-1010 Vienna (hereafter referred to as the "AFW") has set up an Authentication Board comprising experts on the work of Franz West and experts on questions of authenticity to check the provenance of works attributed to Franz West (hereafter referred to as "Works").
2. Every Work associated with Franz West that is known to the AFW is listed under a DN number. This number is merely a registration number that says nothing about the Work's authenticity.
3. In a non-binding assessment, the AFW will state whether the Work in question is an original Work by the artist Franz West. This assessment is based on the subjective convictions of the persons on the Authentication Board.
4. The AFW is entitled to refuse to assess and to accept Works for assessment without giving reasons.
5. When a Work is accepted, the AFW will issue a confirmation of acceptance, which also records the condition of the Work and which must be countersigned. By handing over a Work, the consignor submits to these General Terms and Conditions. The delivery and return of the Work must be carried out by the applicant at his or her own expense. The AFW will treat the Work with all due care but is not liable for any damage to the Work or its loss due to theft during the authentication period. If the applicant wishes to insure the Work in this respect, they must conclude an appropriate insurance contract at their own expense for the period between the acceptance and return of the Work.
6. The assessment of a Work is based on the results of the AFW's investigation and research as well as on an in-depth appraisal of the Work itself or photographic documentation of it. In general, no physiochemical investigation of the Work is carried out.

If the actual Work itself is not submitted, the assessment will expressly state that the authentication is based on photographic documentation only.

7. Subsequent conventional restorations will not alter the AFW's assessment of the authenticity of a Work.
8. The AFW's assessment of a Work may run as follows:
 - a) The submitted Work will be judged to be an original work and will be included in the AFW-catalogue raisonné of Franz West;
 - or*
 - b) It is not possible to judge whether the Work examined is an original Work by Franz West.
9. Information from the archives will only be provided on written request. Any (due diligence) obligations incurred by the AFW when preparing this information only exist towards the designated applicant, even if it was or should have been evident that the archive information was also requested for the purposes of third parties.
10. The AFW reserves the right to charge a handling fee for the preparation of archive information.
11. The General Terms and Conditions apply both to Works that have already been documented by the AFW and to Works that will be handed over to the AFW in the future for review and issuance of archive information.
12. The archive information only reflects the assessment of the AFW on the respective date of issue. It is left solely to the AFW to subsequently modify their assessment of a Work, for example in the case of new findings. If possible, the AFW will inform the applicant in such a case. However, the AFW is under no obligation whatever to inform the applicant of any subsequent change of assessment.
13. The archive information may be issued in paper form or in a suitable electronic form. However, it is only valid if (i) it includes both the assessment and date and the General Terms and Conditions signed by the applicant, and (ii) the AFW representatives empowered to do so have duly signed it by hand. The representatives who sign the document are not necessarily those who have evaluated the Work for the purpose of preparing the archive information. They are also not themselves liable with, or instead of, the AFW.
14. The AFW will not disclose personal data without consent, unless there is a legal obligation to do so.

II. Rights and Obligations of the AFW

1. The AFW is entitled to request, take and retain photographs of the Work to be assessed for the purposes of assessment, examination, research and completion of its documentation.
2. The AFW is entitled to retain a copy of the archive information issued and to reproduce it for internal and external purposes.

III. Rights and Obligations of the Applicant

1. The applicant assures the AFW that he/she is the sole owner of the Work, or that he/she submits the application in the sole economic interest of the owner and on his/her behalf, or that he/she submits the application with evidence of a special scientific interest and applies for the preparation of the archive information solely for his/her own purposes.
2. The applicant undertakes to provide AFW truthfully with all information known to him/her concerning the submitted Work, in particular its title, year of origin, technique, dimensions, provenance, condition as well as any restoration or other subsequent changes by the artist or other persons.
3. The applicant further undertakes:
 - a) to always correctly and completely reproduce the archive information with which he or she is issued;
 - b) to return the archive information the AFW immediately if requested to do so by the AFW; and
 - c) to make reasonable efforts to inform any legal successors to the Work of any subsequent changes to the archive information, provided that the change has been brought to the attention of the applicant by the AFW in an appropriate manner.

IV. Limitation of Liability

1. The AFW, its organs, employees, and other representatives assume no responsibility—in particular, according to the standards of Sections 1299f. of the Austrian Civil Code—for the completeness and correctness of the archive information.
2. Notwithstanding the foregoing, if this complete disclaimer of liability, which is the basis for the request for evaluation and assessment of a Work and the nominal fee charged to cover administrative costs only, is or becomes invalid in whole or in part, the AFW will be liable (i) only for wilful misconduct and gross negligence; (ii) only for an amount limited to ten times the net handling fee paid to the AFW; and (iii) in no way for consequential damages, loss of profits or damages to third parties who were not claimants themselves. The reversal of the burden of proof in Section 1298 of the Austrian Civil Code does not apply.
3. Even in the case of an assignment undertaken in the economic interest of a third party (e.g. in the interest of the owner, see above), the AFW is only liable in accordance with these General Terms and Conditions and only towards the party making the application.
4. The applicant hereby agrees to indemnify and hold harmless upon first request the AFW and its officers, employees and other representatives from and against any and all claims arising out of or in connection with the archive information, even if such claims have been asserted by a third party.

V. Other Provisions

1. By signing these General Terms and Conditions, the applicant declares his/her agreement with the contents of these General Terms and Conditions and accepts them.
2. Irrespective of the content of the archive information, the applicant is obligated to transfer the provisions of these General Terms and Conditions with respect to the Work each time the Work is transferred to any of its legal successors (with the obligation to pass on to any further legal successors).
3. This document is governed exclusively by Austrian law with the exclusion of conflict-of-law referrals and the UN Convention on Contracts for the International Sale of Goods. All disputes arising out of or in connection with these General Terms and Conditions, including disputes about their validity or nullity, interpretation or dissolution, is exclusively subject to the jurisdiction of the competent court for the registered office of the AFW.
4. Agreements deviating from these General Terms and Conditions must be put in writing and signed by both parties in order to be legally effective.

I confirm that I have read and understood the General Terms and Conditions and agree to them:

[Place, Date]

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[Signature, Name and Address of the Applicant]