

AUCTION TERMS AND CONDITIONS FOR FOAL AUCTIONS

Stal Brouwer Auctions

1. General

1.1

These auction terms and conditions apply to all agreements concluded at the foal auction between seller and buyer concerning foals offered at a foal auction through Stal Brouwer Auctions, as well as to all agreements arising therefrom.

1.2

These auction terms and conditions, as well as the agreements referred to in Article 1.1, shall be governed exclusively by Dutch law, with the United Nations Convention on Contracts for the International Sale of Goods (CISG) being expressly excluded in its entirety.

1.3

These auction terms and conditions are published on the website of Stal Brouwer Auctions and are also included in the auction catalogue. By placing a bid at the auction, the bidder declares that they have read and fully agree to these auction terms and conditions.

1.4

The terms written in capital letters in Article 2.1 of these auction terms and conditions shall have the meanings set out below.

2. Definitions

2.1

a. BUYER:

A natural person or legal entity acting as buyer in an agreement for the purchase and sale of a foal during the foal auction.

b. SELLER:

A natural person or legal entity acting as seller in an agreement for the purchase and sale of a foal during the foal auction.

c. ORGANISATION:

Stal Brouwer Auctions.

d. AUCTION COMMITTEE:

A committee appointed by Stal Brouwer Auctions to organise the foal auction.

e. FOAL AUCTION:

The foal auction organised annually by Stal Brouwer Auctions.

f. FOAL:

A foal definitively selected by the auction committee for the foal auction. The foal must be microchipped and must have an equine passport and/or studbook papers.

g. AUCTIONEER:

An auctioneer appointed by Stal Brouwer Auctions to conduct the foal auction.

3. Conduct of the Auction

3.1

The foal auction shall be conducted by an auctioneer appointed by Stal Brouwer Auctions.

3.2

The foals shall be sold by ascending bid to the highest bidder. The foals shall be offered in the order shown in the auction catalogue. The catalogue order shall be determined by drawing lots.

3.3

Bidding shall take place in a manner determined by the auctioneer and announced by the auctioneer prior to the start of the auction.

The organisation and/or auctioneer reserves the right to refuse a bidder without stating reasons.

Each foal shall be offered with an opening bid of €2,000. Up to €5,000, bids shall increase in increments of €200; from €5,000 up to €10,000, bids shall increase in increments of €500; and above €10,000, bids shall increase in increments of €1,000.

Each bidder shall be deemed to bid on their own behalf and shall remain bound by their bid until a higher bid has been accepted.

3.4

Stal Brouwer Auctions offers the possibility of bidding by telephone during the auction. For information and arrangements, please contact Leo Brouwer, telephone number 06-12720084.

3.5

If the auctioneer makes an error, the auctioneer shall be entitled to correct that error.

4. Auction Costs

4.1

For the seller, the entry fee per foal amounts to 10% of the realised purchase price, subject to a minimum of €450 excluding VAT.

The minimum amount of €450 excluding VAT must be paid by the seller at the same time as the electronic registration of the foal via the registration form on the website, or in any event before the start of the auction.

Any remaining amount shall be invoiced to the seller by Stal Brouwer Auctions immediately after the foal has been sold.

4.2

For the buyer - for both in-person and online bids - the auction costs amount to 10% of the purchase price excluding VAT, subject to a minimum of €450 excluding VAT.

4.3

The seller is obliged to actually offer for auction any foal that has been definitively selected for the auction.

If the seller breaches this obligation, the seller shall owe the organisation an immediately payable contractual penalty of €1,000, which shall not be subject to reduction, unless there is a case of force majeure as defined in Article 4.4.

4.4

Only the following circumstances shall qualify as force majeure:

- a. death of the foal;
- b. veterinary reasons which, in the sole opinion of a veterinarian, mean that the foal cannot be auctioned;
- c. other circumstances which, solely at the discretion of the organisation, justify reliance on force majeure.

5. VAT

5.1

The organisation (Stal Brouwer Auctions) is an entrepreneur for VAT purposes in connection with the auctioning of foals.

5.2

All rates and prices stated in these auction terms and conditions are exclusive of VAT.

VAT shall only be charged on the purchase price if the seller is liable for VAT. If this is the case, this shall be stated alongside the foal in the auction catalogue.

The seller is responsible for providing this information correctly and in a timely manner.

6. Exclusion of Liability

6.1

To the extent permitted by law, the organisation excludes all liability towards buyers, sellers and third parties.

6.2

The organisation shall not be liable if a foal listed in the auction catalogue is ultimately not offered for auction.

6.3

The organisation excludes all liability in relation to the health condition of the foals offered for auction, including any stable vices.

In particular, the organisation excludes liability in relation to osteochondrotic abnormalities in the stifle and hock joints of the foal (OC/OCD).

6.4

The organisation shall not be liable for any accident or any form of damage suffered by any person on or near the grounds or buildings where viewing takes place or where the foal auction is held.

All persons enter these grounds and buildings entirely at their own risk.

6.5

The organisation excludes liability for damage to third parties arising during the foal auction, except where such damage results from intent or deliberate recklessness on the part of the organisation.

6.6

The organisation has endeavoured to compile the auction catalogue as accurately as possible.

The pedigree information is intended to provide the best possible impression of the quality of the foals, but does not claim to be complete.

The organisation is not responsible for the accuracy of information contained in the auction catalogue, provided on the auction grounds or announced during the auction.

Information announced by the auctioneer shall prevail over information contained in the auction catalogue.

6.7

The seller is responsible for checking the accuracy of the information concerning their foal as stated in the auction catalogue and must notify the organisation in writing of any errors, corrections or additions no later than the day of the auction.

7. Payment and Delivery

7.1

Immediately after the auction, the buyer must pay the auction costs at the auction office, either in cash or by debit/card payment.

The buyer must pay the purchase price - including VAT where applicable - directly to the seller, without the intervention of the organisation.

The seller's contact details can be obtained from the auction office.

7.2

The seller undertakes to keep a foal younger than five months with the mare until the foal reaches that age, without the buyer being required to pay any compensation for this.

7.3

Until the actual delivery of the foal to the buyer, the foal shall remain at the seller's expense and risk.

Even where a foal was younger than five months at the time it was sold at the foal auction, the risk shall pass to the buyer only upon actual delivery.

A foal that was younger than five months at the time of the foal auction must be received by the buyer no later than one week after the foal reaches the age of five months.

7.4 - Foals born in the Netherlands

For foals born in the Netherlands, the seller is responsible for delivering the foal to the buyer at an address in the Netherlands, unless otherwise agreed between buyer and seller.

7.5 - Foals born in Germany

For foals born in Germany, the seller is responsible for the delivery of the foal within a maximum radius of 150 kilometres from the seller's place of residence.

If the buyer wishes the foal to be delivered outside this 150-kilometre radius, this must be agreed separately between buyer and seller. Any additional transport costs shall be borne by the buyer unless buyer and seller agree otherwise in writing.

7.6 - Export documents and export costs

If a foal is exported to another country and export documents, health certificates, veterinary documents and/or other documents required for export or cross-border transport are necessary, all associated costs shall at all times be borne by the buyer.

This applies regardless of who applies for the required documents or arranges for their issue.

7.7 - Equine passport and studbook papers

The equine passport and/or studbook papers must be delivered by the seller to the buyer together with the foal.

8. Failure to Comply with the Agreement

8.1

If the buyer considers that, after actual delivery, the foal does not conform to the agreement, the buyer may no longer rely on this if the buyer has not notified the seller by registered letter within 2 x 24 hours after discovering the issue, or after the buyer reasonably should have discovered it.

8.2

The seller warrants that the foal sold by the seller does not suffer from any of the following stable vices: crib-biting/windsucking, systematic weaving or cribbing, for a period of 2 x 24 hours after actual delivery of the foal by the seller to the buyer.

8.3

If a recognised equine veterinarian, preferably a certified pre-purchase examination veterinarian, establishes one of the stable vices referred to in Article 8.2 and provides a written statement that, in their professional opinion, the stable vice existed prior to the date of actual delivery, the buyer shall be entitled to seek termination of the purchase agreement or to enter into negotiations with the seller regarding a reduction of the purchase price.

A written request to this effect, preferably sent by registered letter, must reach the seller within 2 x 24 hours after actual delivery.

If this deadline is not met, the right to seek termination of the purchase agreement on this ground, as well as the possibility of negotiating a reduction of the purchase price, shall lapse.

9. Default by the Buyer

9.1

If the buyer fails to fulfil the obligations entered into, the seller shall be entitled, at the seller's own choice, either to demand performance of those obligations or to regard the purchase agreement as terminated without any further notice of default or judicial intervention being required.

In both cases, all rights and claims to full compensation for damages shall remain unaffected.

10. Disputes

10.1

All disputes arising between seller and buyer in connection with agreements concluded at the foal auction concerning foals auctioned by the organisation, or any subsequent agreements arising therefrom, shall be settled by arbitration, without appeal, in accordance with the arbitration regulations of the KWPN (Royal Warmblood Studbook of the Netherlands).

A copy of the arbitration regulations is available upon request from the office of the organisation or from the KWPN office.

10.2

Arbitration shall take place in accordance with the aforementioned regulations. As one of their first obligations, the arbitrators shall determine a period within which, unforeseen circumstances excepted, a decision shall be rendered.

The arbitrators shall in all cases render their award as soon as possible. Their mandate shall continue until a final arbitral award has been issued.

10.3

The foregoing provisions shall also apply to disputes between the organisation on the one hand and the seller, buyer or bidder on the other.

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