

Auction conditions of the Foundation Veuleneveiling Noord-Nederland

Version 20-05-2019

GENERAL CONDITIONS

1.1

These auction conditions apply on all agreements concluded on the foal auction between seller and buyer regarding foals offered on the foal auction via the foundation, as well as all agreements arising thereof.

1.2

These auction conditions, as well as the agreements mentioned in article 1.1, are only subject to Dutch law, with full exclusion of the Vienna Convention (CISG).

1.3

The auction conditions will in any case be disclosed to the auction visitors before the start of the foal auction by or on behalf of the Foundation Veuleneveiling Noord-Nederlands. Plus, these auction conditions are included in the auction catalogue of the foal auction as well as on the website of the foal auction.

1.4

The terms indicated with capitals in article 2.1 of these auction conditions have the following meaning in these auction conditions.

DEFINITIONS

2.1

- a. **BUYER:** Natural person or legal entity that acts as buyer with a purchase or sales agreement of a foal during the foal auction.
- b. **NOTARY:** The notary who is present at the foal auction.
- c. **FOUNDATION:** The Foundation Veuleneveiling Noord-Nederland.
- d. **AUCTION COMMITTEE:** Committee that is entrusted by the foundation to organise the foal auction.
- e. **SELLER:** Natural person or legal entity that acts as seller with a purchase or sales agreement of a foal during the foal auction.
- f. **FOAL:** A foal permanently designated by the auction committee for the foal auction.
- g. **FOAL AUCTION:** The foal auction organised annually by the Foundation.
- h. **AUCTIONEER:** An auctioneer appointed by the Foundation who leads the foal auction.

AUCTION

3.1

The foal auction is organised by the Foundation in the presence of a notary. The role of the notary is limited to supervise the bidding process during the foal auction

PURCHASE AGREEMENT

4.1

The purchase agreement is directly concluded between the seller and buyer, under the obligation for the seller and buyer to pay the auction costs as stipulated in these auction conditions to the Foundation.

THE AUCTION METHOD

5.1

The foal auction is conducted by an auctioneer appointed thereto by the foundation.

5.2

The foals are auctioned outright, without proceedings or recompense, in the condition they are when they are allocated, in order to be raised by the buyer to become a mature horse. The offer of the foals to be auctioned takes place in the catalogue order. The auctioneer has the right to change the order of the foals to be auctioned. Plus, the auctioneer has the right to refuse people as buyer without stating any reason.

5.3

Bidding is done by raising the auction catalogue or any other clear visible method. Unless indicated otherwise by the auctioneer, the following applies:

- bidding starts at € 3,000.- and subsequently the bids are continuously increased by € 500.- (in words five hundred euros), up to €12,000.- .
- from € 12,000. - the bids are continuously increased by € 1,000.- (in words: one thousand euros).

The foundation or the auctioneer reserves the right to refuse a bidder without stating reasons.

5.4

Each bidder is considered to make a bid for himself and is bound this his bid till a higher bid is accepted. When a bid/purchase is made by order of a third party, the bidder/buyer - in addition to any commissioner/principal – is jointly and severally liable for all obligations, that arise from bidding/purchasing at the auction. At the first request of the auction committee and/or auctioneer and/or the notary, every bidder must be able to identify himself with a legal and valid proof of ID (ID card, passport, driving licence) and allow that a copy thereof is made, serving as evidence for the identity of the bidder/buyer. If it appears that the bidder/buyer cannot or will not identify himself at the first request, then the notary has the right, conform the provision below in article 5.7, to mark this as a dispute and make a binding decision on this basis, also including declaring the bid/purchase as invalid/not concluded and – if possible – to re-auction the foal. While bidding or purchasing without, conform the aforementioned, being able or willing to show/submit a valid proof of ID, the bidder/buyer immediately owes a fine of € 2,500.-, not susceptible for reduction, to the foundation, without prejudice to the right of the foundation and seller to claim all damage from this bidder/buyer, that the foundation and/or seller might suffer by non-compliance of the bidder/buyer of the identification obligation.

5.5

If the notary or the auctions has made a mistake, he has the right to correct his mistake.

5.6

The notary observes and if necessary, records facts, that occur during the foal auction. Possible disputes related thereto will receive a binding decision from the notary based on his observations and recordings, on the spot, during the foal auction or immediately afterwards.

AUCTION COSTS

6.1

The auction costs for the seller are:

- a fixed amount of € 400,- excluding VAT and including rent for a box (horse-stable);
- a percentage of the (discounted) purchase price, this conform the following schedule:
 - with a purchase price from € 5,000.- up to € 9,999.-: 8%;
 - with a purchase price from € 10,000.-: 10%,

6.2

The auction costs for the buyer are 10% of the (discounted) purchase price.

6.3

Seller is obliged to actually auction a foal. If he breaches this obligation, he will pay to the foundation an immediately payable fine of € 10,000.- , not susceptible for reduction, unless there is a case of force majeure as stipulated in article 6.4

6.4

Force majeure includes the following circumstances: a. death of the foal; b. veterinary reasons that by the exclusive assessment of the vet appointed thereto by the foundation, leads to the fact that the foal cannot be auctioned. c. other circumstances that by the exclusive assessment of the foundation justify an appeal on force majeure.

6.5

When a foal, by the assessment of the seller, cannot participate in the auction due to health reasons (mentioned above in article 6.4, paragraph a and b), it must be notified to the foundation on time and in writing, with a clear description of the disorder, after which a vet to be appointed by the foundation will determine: a. the nature of the disorder; b. if there is a case of force majeure in the sense of article 6.4, paragraph b. The determination of the vet in this respect is binding for both the seller as the foundation.

6.6

Also when the seller by and to the binding assessment of the vet does not provide sufficient opportunity to examine the foal (on time) or when the foal is approved by the vet and nevertheless still does not participate in the auction, the seller owes to the foundation the penalty that is mentioned in article 6.3

6.7

When a determination in the sense of article 6.5 or 6.6 has taken place, the seller owes to the foundation the veterinary costs it has made in this respect, this with a minimum amount of € 200.- excluding VAT.

6.8

If it appears that there is a case of force majeure in the sense of article 6.4, then the auction costs for the seller are € 400.-. Plus, the seller owes to the foundation the veterinary costs as mentioned in article 6.7.

6.9.

In very exceptional cases the foundation can still exclude a foal from participating in the auction during the photo sessions.

VAT

7.1

The foundation is subject to pay VAT regarding foal auctioning.

7.2

All rates and prices in these auction conditions are excluding VAT. VAT is only charged on the purchase price if the seller is subject to pay VAT. If this is the case it will be mentioned with the foal in the catalogue. All rates and prices in these auction conditions are exclusive of VAT. VAT will only be charged on the purchase price if the seller is liable for VAT. It is the responsibility of the seller to timely and correctly provide this information to be included in the catalogue and to subsequently check this and to inform the Foundation Veulenvailing Noord-Nederland in writing prior to the auction about any possible mistakes or incomplete data and to concretely indicate which adjustments or additions must be implemented.

EXCLUSION LIABILITY

8.1

The foundation, insofar allowed by law, excludes any liability with respect to the buyers, sellers and third parties, in particular but not limited to, the following cases.

8.2 The foundation is not liable when a foal mentioned in the auction catalogue is eventually not offered at the auction.

8.3

The foundation excludes any liability on its side regarding the health condition of the foals to be auctioned, including possible stable defects of the foals. More in particular, the foundation excludes any liability on its side regarding osteochondritis disorders in the knee and hocks of the foal (abbreviated as: OC/OCD).

8.4

The foundation is not liable for any accident or any type of damage suffered by someone in or near the premises or buildings where there is the opportunity of viewing, where the foal auction takes place or where the sold foal is to be collected. Entering these premises or buildings is for everyone's own risk.

8.5

The foundation excludes any liability for damage of third parties, that is caused during the foal auction, except damage that is the result of intent or gross negligence of the foundation, or its supervisors.

8.6

The foundation has tried to accurately compose the auction catalogue. The information about the pedigree is aimed to give the best possible impression of the quality of the foal, however without the pretence to be complete. The foundation is not liable for the accuracy of the information in the auction catalogue, on the auction premises or during the auction. Information of the auctioneer prevails over the information in the auction catalogue.

8.7

It is the responsibility of the seller to check the correctness of the information about his foal, as mentioned in the auction catalogue and to inform the foundation in the person of the auctioneer, about possible mistakes, corrections and additions in writing, no later than 1 hour before the start of the presentation.

PAYMENT AND DELIVERY

9.1.

The foundation pays the purchase price it has received from the buyer, under deduction of the auction costs owed to the foundation by the seller, to the seller on a bank account specified by the seller. Hereby the foundation is authorised on behalf of the seller to grant legal discharge to the buyer for the paid purchase price. Regarding the first two foals to be auctioned, the foundation will pay to the bidder the fee for the highest bid. Aforementioned payment takes place after the seller has met all his obligations towards the buyer. This also includes the obligation for the seller as mentioned below in article 9.10, to provide the seller with the passport that belongs to the foal.

9.2

After allocation of the foal to be auctions, the buyer must immediately pay the purchase price, increased with 10% of the purchase price as auction costs and (if applicable) VAT over the purchase price, either in cash or via direct debit to the foundation. Hereby it does not make a difference if the foal is younger/older than 5 months.

9.3

In case the seller sells a foal on the foal auction that is older than 5 months, the foal must actually be delivered to the buyer by the seller, as soon as the buyer has met all his financial obligations, both towards the seller as the foundation.

9.4

If the buyer at the foal auction has met all his financial obligations, a consignment note is handed to the buyer on behalf of the foundation, based on which the delivery to the buyer by the seller takes place at the location of the foal auction. If there is no direct delivery, at the location of the foal auction, to the buyer by the seller, because they have mutually agreed this or the foal is not yet 5 months old, then the buyer must ensure that the consignment note received from the foundation is immediately handed to the seller.

9.5

Seller is obliged to leave a foal that is younger than 5 months with the mare, without the buyer owing any compensation for this.

9.6

Till the moment of the actual delivery to the buyer the foal remains for the account and risk of the seller. Also when a foal that is younger than 5 months is bought/sold at the foal auction, the risk only transfers to the buyer at the moment of the actual delivery. A foal that is bought/sold at the foal auction and that was then younger than 5 months, must be received by the buyer no later than the date that the foal is 5 months old.

9.7

If the buyer or seller does not comply with their purchase or delivery obligations on time, the party in default will pay to the other party an immediately payable fine of € 2,500.- (in words: two thousand five hundred euros), increased with a fine of € 250.- (in words: two hundred fifty euros) for every day that this default continues.

9.8

The foal is delivered by the seller to the address of the buyer, except in case of delivery at the auction itself. If the buyer lives outside the Netherlands, the seller must deliver the foal to an address within the Netherlands that is specified by the buyer. Therefore, the seller is not obliged to deliver to an address of the buyer outside the Netherlands.

9.9

Seller and buyer are both obliged, as soon as the foal is actually delivered to the buyer by the seller, to immediately inform the treasurer of the foundation of this. The address details of the treasurer are: Mr. A.H. Vink Admiraal Helfrichstraat 20 9801 EM Zuidhorn tel. 06 - 10728460 e-mail: a.h.vink@planet.nl The same obligation applies for the seller and buyer with respect to the receipt by the buyer of the passport and registration document mentioned below in article 9.10.

9.10

Due to European legislation, implemented in the Dutch legislation, the foals must have a passport with chip within six months after being born. As it is preferred that a foal is chipped at the moment that it is still with the mare, the foals must preferably already be chipped prior to the auction, but no later than the moment of the actual delivery to the buyer by the seller. Seller must provide to the buyer the passport and registration document of the foal with the actual delivery of the foal.

NON-COMPLIANCE OF THE AGREEMENT

10.1

If the buyer believes, that the foal after the actual delivery does not comply with the agreement, the buyer can no longer appeal to this if he has not informed the seller about this by registered letter, within 3 weeks after he discovered this, or reasonable should have discovered this.

10.2

Seller assures that the foal sold by him does not suffer from one of the stable defect air sucking, systematic weaving or cribbing and indeed for a period of two times 24 hours after the actual delivery of the foal to the buyer by the seller.

10.3

If a recognised horse vet, preferably being a (VKO) certified inspection vet, detects one of the stable defects mentioned in article 10.2 and he has given written statement in this respect, meaning that this stable defect, in his expert opinion, existed before the date of the actual delivery, the buyer has the right to claim dissolution of the purchase agreement or to negotiate with the seller about the reduction of the purchase price. A written request (by registered letter) thereto must be received by the seller within 3 weeks after the actual delivery, with failure thereof the right to claim dissolution of the purchase agreement on this ground will be void, as well as the possibility to negotiate a reduction of the purchase price.

FAILURE ON THE SIDE OF THE BUYER

11.1

When the buyer has failed to fulfil his obligations, the seller has the right, at his choice and decision, to claim compliance of these obligations, or to consider the purchase agreement as dissolved, without requiring any further notice of default or legal intervention, in both cases under the retention of all rights and entitlements on full damage compensation.

DISPUTES

12.1

All disputes, that occur between the seller and buyer as a result of the agreement concluded at the foal auction related to the foals auctioned by the foundation, or any further agreements that arise thereof, will be settled by arbitration (without appeal) conform the arbitration regulation of the KWPN (Koninklijke Vereniging Warmbloed Paardenstamboek in Nederland). A photocopy of the arbitration regulation is available on request from the secretariat of the foundation or the secretariat of the KWPN.

12.2

Arbitration takes places conform the aforementioned regulation, whereby arbitrators make it one of their first obligations to define a period in which, barring unforeseen circumstances, they will pronounce a verdict. However, the arbitrators will always give their verdict as soon as possible. Their responsibility continues till a final verdict has been given.

12.3

At least one of the arbitrators will be a recognised horse vet, graduated at the University of Utrecht, while at least one of the arbitrators will be familiar with the customs of the foal auction.

12.4

The aforementioned does not affect the fact that the seller and buyer can turn to the court of justice in case of urgent disputes/provisional provisions. When there is such an urgent dispute/provisional provision, this must be submitted to the court of Leeuwarden, this with exclusion of any other court in the Netherlands.

12.5

The aforementioned provisions also apply for disputes between the foundation on the one side and seller/buyer/bidder on the other side. "All rights reserved. Nothing from these auction conditions may be copied,

stored on an automated data file, or be disclosed, in any shape or form, either electronically, mechanically, by photocopying, recordings or any other way, without prior written approval of the foundation”.