

# General Terms and Conditions for Auctions

*of the Foal Auction Northern Netherlands Foundation (Stichting Veuleneiling Noord-Nederland), hereinafter referred to as: the Auction Organisation.*

## 1. General

### 1.1. Definitions

For the purpose of these general terms and conditions the following terms have the following meaning:

<b>Delivery Agreement</b>	the delivery agreement filled in and signed by the Buyer and the Seller from which it becomes apparent that the purchase of the Horse by the Buyer took place;
<b>Auction Amount</b>	an amount offered by the Bidder for a Horse at an Auction;
<b>General Terms and Conditions</b>	these general terms and conditions as applicable to auctions of the Auction Organisation, both the Online Auctions and the Physical Auctions;
<b>Bidder</b>	the person who registers or registered in the manner prescribed by the Auction Organisation for participation in an Online Auction as well as the person who bids on a Horse (Horses) during a Physical Auction;
<b>Consumer</b>	the natural person who does not act for purposes that are related to the performance of a commercial, business, traditional or professional activity;
<b>Participant</b>	a participant in the Auction, acting in the capacity of Bidder, Buyer or Seller;
<b>Award</b>	the express statement of the Auction Organisation (on behalf of the Seller) to the Buyer that a bid of the Buyer is accepted as the highest bid and that the Horse for which the Buyer placed a bid was awarded to the Buyer. The said statement qualifies as acceptance on behalf of the Seller within the meaning of Section 217 of Book 6 of the Dutch Civil Code. The said statement consists of the Sale and Purchase Agreement Statement;
<b>Registration</b>	the registration of the Seller with the Auction Organisation so that the Auction Organisation can offer a Horse at an Auction on behalf of the Seller;
<b>Sale and Purchase Agreement</b>	the sale and purchase agreement between the Seller, on the one hand, and the Buyer, on the other hand, that is concluded as a result of the Award;

**Purchase Price**

the amount payable by the Buyer for the Horse offered at the Auction consisting of the Auction Amount plus the Premium, all to be increased by the applicable VAT rate;

**Buyer**

the Bidder to whom the Award took place;

**Auction Organisation**

The Foal Auction Northern Netherlands, operating under the name of Starsale Auctions, hereinafter referred to as: the Auction Organisation;

**Horse**

a foal, mare or stallion;

**Personal Data**

the (personal) data that must be supplied to the Auction Organisation upon registration by a Participant in order to participate in an Online Auction as a Participant and that can be traced to his or her person;

**Online Foal Auction**

the Online Foal Auction organised by the Auction Organisation;

**Premium**

an amount with which the Auction Amount is increased and that arrives at 10% (excluding VAT) of the Auction Amount;

**Buyback**

if the Buyer is also the Seller of the Horse offered at the Auction;

**Auction**

the auction organised and facilitated by the Auction Organisation for the sale of one or more Horses. It can be both physical auctions on location organised and facilitated by the Auction Organisation ("**Physical Auction**") and online auctions organised and facilitated by the Auction Organisation via the Auction Website ("**Online Auction**"); If the option is also offered during a Physical Auction to bid Online on the foals offered during the Physical Auction, this is referred to as a '**Hybrid Auction**'.

**Auction Service**

the brokerage during the conclusion of a Sale and Purchase Agreement through the facilitation of an Auction;

**Auction Website**

the auction website with which the Auction Organisation offers its Auction Service;

**Sale and Purchase Agreement  
Statement**

the sale and purchase agreement statement sent and/or supplied to the Bidder / Buyer by the Auction Organisation (on behalf of the Seller) and to be filled in and signed by the Bidder / Buyer;

**Sale**

if the Buyer is a party other than the Seller;

**Seller**

the natural person or legal person who commissioned the Auction Organisation to, in the name and at the expense of the Seller, sell one or more Horses through an Auction;

**1.2. Applicability of the General Terms and Conditions**

1.2.1. These General Terms and Conditions are applicable to the legal relationships between the Auction Organisation and the Participant. The Participant is deemed to have accepted the applicability of these General Terms and Conditions. Applicability of other general terms and conditions is excluded.

1.2.2. Any and all provisions in these General Terms and Conditions were also stipulated for the benefit of all those who are or were active for, for the benefit of and/or on behalf of the Auction Organisation. They can directly rely on the provisions of these General Terms and Conditions as if they were the Auction Organisation.

**1.3. Auction**

1.3.1. The Auction Organisation organises and facilitates the Auction and auctions one or more Horses under the authority of the Seller, without being or becoming a party to Sale and Purchase Agreement to be concluded or concluded.

1.3.2. The Auction Organisation determines the dates and times when the Auction takes place.

1.3.3. An Online Auction closes on a previously indicated date and at a previously indicated time. The duration of the Online Auction is indicated on the Auction Website. If during the last five minutes prior to the indicated closing time a bid is placed then the closing time is (always) extended by two minutes. Definitive closing then takes place two minutes after the last bid.

1.3.4. A Physical Auction takes place under the authority of an auctioneer designated by the Auction Organisation.

1.3.5. A Physical Auction takes place under the supervision of a civil-law notary designated by the Auction Organisation.

1.3.6. The Auction Organisation determines the order and the sequence of the Auction. The Auction Organisation is entitled to, without stating reasons, deny anyone access to and/or participation in and/or Registration for the Auction or to impose (further) conditions on the same.

1.3.7. The Horses offered at the Auction are auctioned / sold without guarantee or warranty, without action or recompense, in the state they are in upon Award, without liability of the Auction Organisation regarding the value, the state or the capacity of auctioned Horses.

1.3.8. As a result of the Award a Sale and Purchase Agreement is concluded by and between the Buyer and the Seller.

To this end, the Auction Organisation shall in case of Physical Auctions provide the Buyer with a written Sale and Purchase Agreement Statement at the time of the Auction and in case of Online Auctions send a written Sale and Purchase Agreement Statement to the Buyer and the Buyer is held to return it, filled in completely and signed, to the Auction Organisation within seven calendar days after despatch.

1.3.9. Horses offered at an Auction are sold at open ascending prices with a minimum opening bid announced at the Auction, unless the Auction Organisation determines that the Auction, or a part of it, shall take place at open descending prices. The Auction Organisation is at any time during the Auction entitled to change the manner that the Auction takes place. Both in case of an open ascending price Auction and in case of an open descending price Auction there is always merely question of an invitation of the

Seller to submit a bid. The Auction Organisation is entitled not to recognise a bid if there are, at the discretion of the Auction Organisation, reasonable grounds for this.

#### 1.4. Delivery

- 1.4.1. In the supplementary terms and conditions of the relevant Auction it is mentioned how delivery and purchase of the purchased Horse take place.
- 1.4.2. Purchase / delivery can only take place after the complete Purchase Price and the amounts otherwise payable have been paid to the Auction Organisation by the Buyer. As long as the Auction Organisation has not received payment in full from the Buyer, also pursuant to potential other sale and purchase agreements, the Seller remains the owner of the Horse.
- 1.4.3. Only after written consent of the Auction Organisation shall the Seller be authorised to deliver the sold Horse to the Buyer.
- 1.4.4. The Buyer is held to take delivery of the Horse from the Seller at the latest within 14 calendar days after payment in full to the Auction Organisation. If the Buyer refuses to take delivery or is negligent then the Buyer shall be in default vis-à-vis the Seller and shall, inter alia, be held to pay compensation for the damages of the Seller, without prejudice to any other right, and to pay any and all additional costs related to the same, including stabling fees, in which instance the Seller shall only release the Horse if and as soon as the aforementioned costs have been paid in full. The foal can be delivered to the Buyer when it has attained the age of 5 months.
- 1.4.5. Pursuant to European regulations, implemented in the Dutch regulations, foals must dispose of a passport with chip within six months after birth.  
On account of the fact that it is preferred chipping a foal at the moment that it is still with the mare, the foals should preferably already have been chipped prior to the auction, however at the latest at the moment of actual delivery by the Seller to the Buyer.  
Upon actual delivery of the foal the Seller must provide the Buyer with the passport and registration papers of the foal.  
If the purchased Horse is transported abroad, the risk of the Horse will pass to the Buyer at the moment that the Seller has delivered the Horse to the delivery address from which the Horse will be transported abroad.
- 1.4.6. Upon purchase / delivery of the purchased Horse the Buyer must observe the necessary diligence and follow the instructions given by or on behalf of the Seller unconditionally and in full. The Buyer shall be liable for damages inflicted upon or in the context of the purchase / delivery of the purchased Horse and shall indemnify the Auction Organisation and the Seller against relevant claims of third parties.
- 1.4.7. Within 7 calendar days after the purchase / delivery of the Horse the Seller and the Buyer are held to inform the Auction Organisation accordingly in writing upon submission of a Delivery Agreement.
- 1.4.8. Up to the moment that the purchase / delivery of the Horse takes place and until the Auction Organisation has received payment in full from the Buyer, also on account of earlier agreements, the Auction Organisation shall have a lien in respect of the Horse.
- 1.4.9. The Seller guarantees that the foal sold by the same does not suffer from one of the stable vices wind-sucking, systematic weaving or crib-biting and such during a period of twice 24 hours after the actual delivery of the foal to the Buyer by the Seller.
- 1.4.10 If a recognised equine veterinarian, preferably a certified (by the VKO) inspection veterinarian, observes one of the stable vices as intended in article 1.4.9 and he issued a relevant written certificate, comprising that, in his expert opinion, the said stable vice existed prior to the date of actual delivery then the Buyer shall be entitled to claim rescission of the Sale and Purchase Agreement and/or to enter into negotiations with the Seller about a reduction of the Purchase Price. A relevant written request (by registered post) must reach the Seller within 3 weeks after actual delivery, failing which the right to claim rescission of the Sale and Purchase Agreement on the said ground expires as well as the possibility of negotiating about a reduction of the Purchase Price.

## 1.5. Transfer of title

The title of the purchased Horse transfers (when all conditions for a legally valid transfer are met) to the Buyer at the moment of purchase / delivery as intended in article 1.4 of these General Terms and Conditions, however not sooner than after the Buyer has paid the complete Purchase Price and other amounts that the Buyer may be liable to pay to the Auction Organisation, which in this respect acts on behalf of the Seller, including those that are related to activities performed or to be performed for the benefit of the Buyer and/or on account of claims based on a failure to comply with the Sale and Purchase Agreement.

## 1.6. Right of withdrawal in case of Consumer Buyer in case of an Online Auction

- 1.6.1. If the Buyer is a Consumer then the Buyer can rescind a Sale and Purchase Agreement with regard to the purchase of a Horse via an Online Auction during a reflection period of at most 14 calendar days, without stating reasons, on the basis of the statutory right of withdrawal of Sections 230o ff. of Book 6 of the Dutch Civil Code. The Seller can inquire with the Buyer about the reason for the withdrawal, but cannot compel the Buyer to state his / her / its reason(s). The reflection period as intended in this article takes effect on the day after the Buyer, or a third party previously designated by the Buyer, not being the carrier, has received the purchased Horse.
- 1.6.2. If the Buyer relies on the statutory right of withdrawal then the Buyer notifies the Seller and the Auction Organisation accordingly within the reflection period in an unambiguous and written manner. As soon as possible, however within 14 calendar days from the day following the notification as intended in this article, the Buyer returns the Horse, or the Buyer presents the Horse to the Seller. This is not required if the Seller offered to personally pick up the Horse. The Buyer did, in any case, observe the return period if the Buyer returns the Horse before the reflection period has expired.
- 1.6.3. The Buyer returns the Horse with any and all delivered accessories, and in conformity with the reasonable and clear instructions provided by the Seller.
- 1.6.4. The risk and the onus of proof in terms of correctly and timely exercising the right of withdrawal are vested in the Buyer.
- 1.6.5. The costs associated with the return are at the expense of the Buyer.
- 1.6.6. During the reflection period and the return the Buyer shall handle the Horse diligently and, if provided, according to the instructions of the Seller.
- 1.6.7. If the Buyer relies on the statutory right of withdrawal then any and all supplementary agreements are rescinded by operation of law.
- 1.6.8. The Seller repays the Purchase Price to the Buyer (including potential delivery costs for delivery at the Buyer) expeditiously however within 14 calendar days following the day that the Buyer gives notice of the withdrawal. Unless the Seller offers to personally pick up the Horse, the Seller can wait with the repayment until the Seller has received the Horse.
- 1.6.9. The Seller uses the same payment method for the repayment that the Buyer used, unless the Buyer agrees with a different method. The repayment is free of charge for the Buyer.
- 1.6.10. If the Buyer opted for a more expensive delivery method than the cheapest standard delivery then the Seller does not need to repay the additional costs for the more expensive method.
- 1.6.11. This article 1.6 is only applicable in case of the purchase of a Horse by a Consumer Buyer through an Online Auction.

## 1.7. Information

- 1.7.1 The Auction Organisation compiles the (digital) catalogue as diligently as possible. The information in the (digital) catalogue aims at providing an impression of the quality of the Horses offered at the Auction, without the Auction Organisation trying to aim for completeness and no rights can be derived from the same.
- 1.7.2 If the Horse offered at the Auction needs to undergo a veterinary examination as part of the selection procedure for the Auction then the said veterinary reports can be requested from the Auction Organisation. The content of the said veterinary reports has binding effect on the Auction Organisation and on the Participant.

## 1.8. Turnover tax

- 1.8.1. The Auction Organisation is an entrepreneur for the turnover tax. Changes in respect of the applicable VAT rate may give cause to a corresponding adjustment of the applicable VAT percentages.
- 1.8.2. Per Horse it is indicated prior to the Auction under what VAT regime the relevant Horse is auctioned.
- 1.8.3. If in connection with the transfer of auctioned Horses to another Member State of the European Union is invoiced at the VAT zero rate at the request of the Buyer then the Bidder / Buyer commits to meet all relevantly required conditions in order to realise a legally valid intra-community transaction.
- 1.8.4. If (afterwards) applicability of the VAT zero rate appears, due to any circumstances whatsoever, not to be possible then the Buyer is yet liable to pay an amount that would have been payable if there had been question of a domestic transfer of the relevant Horse. At the request of the Auction Organisation the Buyer is, however, held to forthwith pay the aforementioned amount to the Auction Organisation. As the occasion arises, repayment shall only and exclusively take place if the Buyer has complied, to the satisfaction of the Auction Organisation, with the conditions according to article 1.8.3. The Buyer shall be liable for and indemnifies the Auction Organisation against, in any case, damages that derive from the non-compliance with the conditions set forth in article 1.8.3. In addition, the Buyer shall be liable for any and all (extra-) judicial expenses incurred by the Auction Organisation, with a minimum amount of € 1,000, excluding potentially payable VAT.

## 1.9. Exclusion and limitation of liability of the Auction Organisation

- 1.9.1. The Auction Organisation shall not be liable for damages caused by supply of incorrect and/or incomplete information, irrespective of the nature and scope of the said damages and of the said information and irrespective of the origin of the said information. If the incorrect and/or incomplete information originates from the Seller then the Seller must indemnify the Auction Organisation against any and all claims of a third party (third parties) in connection therewith.
- 1.9.2. The Auction Organisation shall not be liable for damages occurring prior to, during and/or after expiry of the Auction inflicted by or on persons and/or by or on property and/or by or on Horses.
- 1.9.3. The Auction Organisation shall not be liable for damages, either direct or indirect and irrespective of the nature and scope, as a result of a failure to comply with an obligation by a third party (third parties), also including but not limited to a failure to comply correctly with obligations of the Buyer and/or the Seller and/or as a result of an act and/or omission of the Participant.
- 1.9.4. The Participant shall not be liable for any and all damages caused by the same and indemnifies the Auction Organisation against each and every claim of a third party (third parties), also including but not limited to other Participants, regarding the said damages, irrespective of the nature and scope.
- 1.9.5. The Auction Organisation cannot guarantee that the Seller can transfer the title of an auctioned Horse in a free and unencumbered manner and the Auction Organisation shall not be liable for damages potentially connected to the same.
- 1.9.6. Exclusions of liability of the Auction Organisation are not applicable in case of intent or gross negligence of the Auction Organisation that can be blamed on the Auction Organisation.
- 1.9.7. Each and every liability of the Auction Organisation shall always be limited to an amount of at most € 10,000. Claims for compensation expire one year after the day when the Participant or a third party has become familiar with the damages and the relevant liability of the Auction Organisation for the same.
- 1.9.8. The Auction Organisation does not take out insurance for the benefit of the Seller and/or the Buyer of the relevant Horse. As the Buyer and the Seller participate in the Auction entirely at their own risk and expense, the Auction Organisation advises them to personally take out the said insurance.

## 1.10. Privacy Statement

The Auction Organisation shall use the Personal Data in accordance with the provisions set forth in the Privacy Statement on its Auction Website. In case of a visit to the Auction Website the Participant should always consult the latest changes of the Privacy Statement. The Participant agrees that his / her Personal Data upon registration and/or login are used for inclusion in the prospectus. The Participant gives the Auction Organisation unconditional consent to use the said Personal Data for the benefit of, inter alia, the prospectus.

### 1.11. Disputes and applicable law

- 1.11.1. The legal relationship between the Auction Organisation and the Participant as well as the legal relationship between the Seller and the Buyer is exclusively governed by Dutch law, with complete exclusion of the Vienna Sales Convention (CISG).
- 1.11.2. If a dispute arises during the Auction about the routine during the Auction then the Auction Organisation is authorised to issue a binding opinion and authorised to continue the Auction as an open ascending price Auction. If the Auction Organisation requests a civil-law notary to issue an opinion on the routine during the Auction then the civil-law notary shall decide for any and all parties in a binding and irrevocable manner.
- 1.11.3. Disputes, other than those that were submitted to the opinion of the Auction Organisation or the civil-law notary, shall be settled in accordance with the Arbitration Regulations of the Netherlands Arbitration Institute (NAI) by one arbitrator, to be appointed according to the list procedure. The arbitration takes place in Utrecht. The arbitration proceedings are conducted in the Dutch language. If the Buyer is a Consumer then, at his / her written request, the District Court for the Central Netherlands, Utrecht location, shall be competent. If the Seller and/or the Auction Organisation intend to institute proceedings and the Buyer is a Consumer then the Seller and/or the Auction Organisation shall, during a period of one month, give the Buyer the opportunity to communicate the Buyer's choice for NAI arbitration or the District Court for the Central Netherlands, Utrecht location. In case of an urgent interest (preliminary injunction proceedings) the Buyer and/or the Auction Organisation can shorten the said period to five working days.

### 1.12. Other provisions

- 1.12.1. The Auction Organisation reserves the right to change these General Terms and Conditions unilaterally. In case of adjustments the new General Terms and Conditions are applicable effective from the first following Auction.
- 1.12.2. If a provision of these General Terms and Conditions is not legally valid then this shall not affect the legal validity of the other provisions. As the occasion arises, the provision shall be replaced by a new provision in the course of which the scope of the null and void / nullified provision shall be observed.
- 1.12.3. In case of differences between translations of these General Terms and Conditions and the Dutch text of the General Terms and Conditions, the Dutch text shall prevail.

## **2. Supplementary terms and conditions applicable to the Bidder and/or the Buyer**

### 2.1. Bid

- 2.1.1. By participating in an Auction the Bidder accepts that he / she / it agrees unconditionally and without proviso with the terms and conditions and the procedures that are or shall be applicable to the Auction.
- 2.1.2. The Bidder is held to follow instructions and guidelines given by or on behalf of the Auction Organisation in the context of an Auction.
- 2.1.3. The Auction Organisation reserves the right to at any time, for reasons of its own, refuse and/or unilaterally terminate registration for an Auction and (further) participation of a Bidder in an Auction.
- 2.1.4. To participate in an Auction as a Bidder registration in the manner prescribed by the Auction Organisation is mandatory. The Bidder must prior to participation in the Online Auction register digitally on the auction platform on the Auction Website. The Bidder receives a strictly personal user name and password with which access to the bidding system is obtained. The Bidder is responsible for any and all acts that take place on an Online Auction and that derive from the use of the Bidder's user name and password. Bids take place digitally. The highest bid per Horse is indicated on the Auction Website. The bid steps are € 250 per bid, unless indicated otherwise.
- 2.1.5. If a Bidder places a bid then the said bid is qualified as an offer to the Seller within the meaning of Section 217 of Book 6 of the Dutch Civil Code. A Bidder is bound by a bid, which is deemed to be irrevocable and unconditional. Each and every Bidder who places a bid is deemed to bid / offer for himself / herself / itself and is personally bound vis-à-vis the Auction Organisation and (after Award) vis-à-vis the Seller in terms of the obligations deriving from his / her / its bid vis-à-vis the Auction Organisation and the Seller. This also applies if the Bidder who places the bid declares to act on behalf of a third party.

- 2.1.6. The Bidder bids at his / her / its own risk and expenses and is bound by the bid until a higher bid has been accepted.
- 2.1.7. The Bidder can, when placing a bid, not rely on bid or typing errors or mistakes.
- 2.1.8. The Bidder accepts the special circumstances that may occur in case of an Online Auction, including technical imperfections as a result of which a bid cannot be placed in a timely fashion.

## 2.2. Payment obligations of the Buyer

- 2.2.1. Following conclusion of the Sale and Purchase Agreement the Buyer is liable to pay a Purchase Price.
- 2.2.2. The Buyer must pay the Purchase Price in euros to the Auction Organisation within 7 calendar days after the date of conclusion of the Sale and Purchase Agreement through remittance to the bank account number in the name of the Auction Organisation, without any discount or settlement.
- 2.2.3. In case of late payment of the Purchase Price the Buyer shall be in default and the Auction Organisation shall be entitled to immediately sell the Horse privately, in the course of which the bid of the original Buyer is no longer valid. The Buyer shall never be entitled to surplus proceeds in case of a private sale and remains held to compensate the Auction Organisation for deficit proceeds. As the occasion arises the Auction Organisation is then moreover entitled to, without a notice of default being required, on behalf of the Seller and without consent of the Seller, consider the Sale and Purchase Agreement to be rescinded without the Buyer being entitled to compensation (for damages). In addition, the Buyer shall be liable to pay the Auction Organisation administration charges equal to 6% of the Auction Amount and the Bidder / Buyer shall be liable to pay any and all (extra-) judicial costs associated with collection of the claim vis-à-vis the Buyer by the Auction Organisation, with a minimum of € 1,000, excluding potentially payable VAT, to the Auction Organisation.  
The Buyer is not entitled to settlement.
- 2.2.4. If the Seller or the Buyer rescinds the Sale and Purchase Agreement or otherwise impairs the same then the Buyer remains liable vis-à-vis the Auction Organisation to pay the Premium, without prejudice to any other right of the Auction Organisation as the occasion arises. The foregoing is not applicable in the event that in case of an Online Auction a Consumer Buyer relies on his / her right of withdrawal, as intended in article 1.6 of these General Terms and Conditions.

## 3. **Supplementary terms and conditions applicable to the Seller**

### 3.1. General

- 3.1.1. The legal relationship between the Auction Organisation and the Seller is an agreement for the provision of services. The Seller offers a Horse for auctioning through Registration.
- 3.1.2. The Seller commits to check the correctness of the information in the (digital) catalogue, as intended in article 1.7 "Information" of these General Terms and Conditions, regarding the Horse registered by the Seller and to inform the Auction Organisation of inaccuracies at the latest 7 calendar days prior to the Auction in writing and to in connection therewith indicate as detailed as possible what changes or additions should be made.
- 3.1.3. The conditions that the Auction Organisation imposes on a Horse, the Registration and the Seller in the context of the Auction are merely imposed in the interest of a good Auction.

### 3.2. Guarantees and indemnifications

- 3.2.1. The Seller guarantees to be able to transfer the full title of the Horse to the Buyer in a free and unencumbered manner. The Seller is held to indemnify the Auction Organisation against claims of the Buyer and/or a third party (third parties) in connection with non-compliance with the said guarantee by the Seller.
- 3.2.2. The Seller guarantees that the Horse is free from banned substances. As intended on the recent list of the Federation Equestre Internationale (FEI), which can be consulted on the website of the FEI ([www.FEI.org/](http://www.FEI.org/)), during the selection procedure and the Auction. The Auction Organisation is entitled to take blood or urine samples during the selection process and prior to the Auction for examination on banned substances.
- 3.2.3. The Seller guarantees the correctness and the completeness of the (results of) examinations. The Seller indemnifies the Auction Organisation against each and every claim, irrespective of the nature and the



scope and irrespective of by whom, for a non-conformity of a sold Horse that has become apparent during or after the Auction.

- 3.2.4. The Seller is held to indemnify the Auction Organisation against claims of the Buyer and/or a third party (third parties) in connection with non-compliance with the said guarantees by the Seller or any other claim by third parties.

### 3.3. Registration and selection

- 3.3.1. The Registration takes place by filling in, signing and sending the Agreement regarding Designation of a Foal for Auction to the Auction Organisation by the Seller.
- 3.3.2. Through the Registration the Seller commissions the Auction Organisation to auction a Horse at an Auction and, after Award, to sell it at the highest bid on behalf of the Seller, provided that the Horse is selected and admitted to the Auction by the Auction Organisation.
- 3.3.3. Only Horses selected by the Auction Organisation can participate in the Auction.
- 3.3.4. The Auction Organisation determines the criteria that Horses to be selected for the Auction must meet.
- 3.3.5. The Auction Organisation or a selection committee set up by the Auction Organisation is always authorised to refuse a Horse, without stating reasons, also if the Horse had previously already been selected for the Auction. The Auction Organisation shall never be held to, on any ground whatsoever, compensate the Seller for costs incurred by the same for the Registration and/or the selection.
- 3.3.6. If it becomes apparent that the Horse was administered banned substances then the Seller is, inter alia, held to immediately take back the Horse. Any and all costs in connection therewith are at the expense of the Seller. The Seller remains liable vis-à-vis the Auction Organisation to comply with any and all payment obligations laid down in these General Terms and Conditions, to the extent that they are related to compensation for the benefit of the Auction Organisation.
- 3.3.7. Effective from the Registration the Seller remains responsible for the care and supervision of the Horse.
- 3.3.8. The Auction Organisation shall never be held to, on any ground whatsoever, compensate the Seller for costs incurred by the same for the Registration and/or the selection.

### 3.4 Costs and payment obligations of the Seller

- 3.4.1. Following and at the moment of Registration the Seller is liable to pay registration fees to the Auction Organisation. The level of the registration fees per Horse payable to the Auction Organisation by the Seller, plus a percentage on the Auction Amount, is announced for each and every Auction upon Registration by means of a form of Conditions pertaining to the Agreement regarding Designation of a Foal for Auction. In case of a sale the registration fees are settled with the proceeds of the Auction. In case of a Buyback the Seller receives an invoice for it.
- 3.4.2. By way of down payment on the payable auction costs the Seller is liable to pay the minimum auction costs of € 400, excluding VAT, at the moment of designation for auction. This amount must be paid directly, where applicable, on the photo day in cash or through direct debit to the foundation. The latter to provide the treasurer and the Seller clarity, if the stipulated amount is not brought along then a non-recurring direct debit authorisation must be provided on the photo day. After the Auction it is determined what amount the Seller is definitively liable to pay by way of auction costs. The aforementioned down payment is deducted from this. If the foal is not being auctioned due to force majeure, as intended above in article 6, then the auction costs for the Seller arrive at € 400, excluding VAT; the foundation settles this with the aforementioned down payment.
- 3.4.3. Within 7 calendar days after the Auction Organisation has received the Delivery Agreement from the Buyer and/or the Seller the Auction Organisation shall proceed with payment to the Seller of the amount payable to the Seller by the Auction Organisation, consisting of the Auction Amount minus the amount payable by the Seller to the Auction Organisation on account of these General Terms and Conditions or otherwise.
- 3.4.4. If the Auction Organisation has received the Delivery Agreement but the Buyer and/or the Seller did not comply with all (payment) obligations vis-à-vis the Auction Organisation yet then the Auction Organisation shall proceed with payment of the amount payable to the Seller by the Auction Organisation at the latest within 30 calendar days after the last payment obligation has been met. The Seller is not entitled to settlement.

### 3.5. Buyback

- 3.5.1. The Horse offered at Auction is always sold, unless no bid is placed. If no bid is placed then the Seller is held to buy back the Horse at the opening bid. As the occasion arises, the Auction Amount is qualified as the said opening bid.
- 3.5.2. The Seller who buys back a Horse that it offered to be auctioned is also qualified as the Buyer, barring for the purpose of article 1.6 of these General Terms and Conditions.

### 3.6. Non-participation of registered Horse in Auction

- 3.6.1. If a registered Horse does not participate in the Auction then the Seller is immediately, without a notice of default being required, liable to pay a penalty of € 10,000.
- 3.6.2. If a registered Horse is, at the discretion of the Seller, not able to participate in the Auction on account of medical reasons then this must forthwith be communicated to the Auction Organisation in writing with a description of the disorder that is as detailed as possible, after which the Auction Organisation shall assess (have assessed) the nature of the disorder and it shall determine whether the Horse can or cannot participate in the Auction.
- 3.6.3. If the Seller does not offer the Auction Organisation the possibility and/or not sufficiently to examine (have examined) the Horse (in a timely fashion) or if the Horse was approved by the Auction Organisation or by a veterinarian approved by the Auction Organisation for participation in the Auction and does, nonetheless, not participate in the Auction then the Seller shall be liable to pay the aforementioned penalty of € 10,000 to the Auction Organisation. If a, whether or not approved, Horse does not participate in the Auction then the Seller must compensate the Auction Organisation for the (veterinary) expenses incurred in connection therewith, with a minimum amount of € 1,000, excluding potentially payable VAT.

### 3.7. Authorisation Seller

- 3.7.1. In case of a Physical Auction the Seller can register a maximum of two authorised representatives for all Horses together, offered for Auction by the Seller, who participate in the Auction on behalf of the Seller in order to buy back the Horse offered during the Auction. Registration of an authorised representative must take place prior to the start of the Auction with the Auction Organisation whilst making use of the prescribed authorisation form. During the Auction an authorised representative acts at the risk and expense of the Seller. An act of an authorised representative is qualified as an act of the Seller.

## **Supplementary terms and conditions applicable in case of Online Foal Auction**

### 6.1 Auction

The Online Foal Auction is an Online Auction.

### 6.2 Inspection

The Seller gives the Bidder the opportunity to, if so requested, inspect foals offered at Auction prior to the Auction by appointment with the Seller, exclusively on request.

### 6.3 Registration and selection

In case of an Online Foal Auction the following terms and conditions are applicable to Registration and selection:

- a. A selection committee set up by the Auction Organisation assesses and selects the foals that qualify for participation in the Auction. A relevant decision of the selection committee has binding effect.
- b. Foals can be admitted to the Auction that:
  - a. were selected by the selection committee set up by the Auction Organisation;
  - b. are free from visible defects, including but not limited to stable vices;
  - c. were presented, filmed and photographed on the photo and video day organised by the Auction Organisation of which the date and time are determined, set and communicated by the Auction Organisation;
  - d. were examined at the latest three weeks prior to the start of the Auction on externally visible defects by the jury designated by the Auction Organisation and that, at the time of the said examination, comply with the external standards of the Auction Organisation;

- e. were submitted to a veterinary clinical examination on the photo and video day organised by the Auction Organisation on defects of the eyes, heart, lungs, teeth and, if a stallion, the testicles. A veterinary report is drawn up of the veterinary clinical examination, which can be inspected (online). The said examination is carried out by a recognised inspection veterinarian.

#### 6.4 Delivery

In case of an Online Foal Auction the delivery of a purchased foal takes place through delivery by the Seller to the Buyer. If the Buyer resides outside the Netherlands then the Seller must deliver the foal at an address in the Netherlands to be designated by the Buyer. The delivery of a foal takes place after the foal has attained the age of 5 months. The Buyer is not held to pay any fee to the Seller for the period up to the delivery.

#### 6.5 Transfer of risk

In case of an Online Foal Auction the risk in respect of the foal transfers as follows:

- if the Buyer is a Consumer then the foal shall be at the risk of the Buyer from the moment of delivery if the foal is then 5 months or older and from the said moment any and all responsibilities and liabilities as well as any and all risk factors are transferred to the relevant Consumer Buyer. The Consumer Buyer shall indemnify the Auction Organisation against any and all claims of third parties in connection therewith. In case of a foal that is younger than 5 months at the time of delivery, the risk of loss of and/or damage to and/or caused by the auctioned / purchased foal shall be vested in the Seller up to the age of 5 months and in the Buyer after the age of 5 months. The Seller is held to keep a sold foal with the mother up to the age of 5 months without the Buyer being liable to pay a fee for this and the Seller is held to deliver the foal to the Buyer at the latest before the foal attains the age of 5 months.
- if the Buyer is not a Consumer then the foal shall be at the risk of the Buyer from the moment of Award where the foal is 5 months or older and from the said moment any and all responsibilities and liabilities as well as any and all risk factors are transferred to the relevant Buyer. The Buyer shall indemnify the Auction Organisation against any and all claims of third parties in connection therewith. In case of a foal that is younger than 5 months at the time of Award, the risk of loss of and/or damage to and/or caused by the auctioned / purchased foal shall be vested in the Seller up to the age of 5 months and in the Buyer after the age of 5 months. The Seller is held to keep a sold foal with the mother up to the age of 5 months without the Buyer being liable to pay a fee for this and the Seller is held to deliver the foal to the Buyer at the latest before the foal attains the age of 5 months.