

<b>Conditions of Sale</b> <b>Foal Auction July 27th 2019 in Hanover</b>
--

The following terms and conditions are binding for all legal relationships between buyers, sellers and the Trakehner Gesellschaft mbH (= organizer), Rendsburger Straße 178a, 24537 Neumünster, represented by its managing director Lars Gehrman:

### **1. Organizer**

**a)** The auction is conducted by the Trakehner Gesellschaft mbH, Rendsburger Straße 178a, 24537 Neumünster, Germany, represented by Managing Director Lars Gehrman. The Trakehner Gesellschaft mbH sells the foals listed in the catalog in the name and on account of the owner/seller as his/her agent/representative

### **b) Public auction**

The auction is held as a public auction according to §§ 383 paragraph 1 and 474 paragraph 1 of the BGB at the Equestrian Stadium Hanover, Am Jagdstall 25 in 30179 Hanover. The auctioneer offers all foals and accepts all bids.

The auction is open to the public.

Contracts of sale are formed between the inaugurated auctioneer with his acceptance of a bid by a buyer, and the seller.

### **2. Presentation**

**a)** All foals for sale will be presented at liberty prior to the auction.

**b)** During the auction, foals will be presented at liberty. The order of foals in the auction will be determined by the auction office.

### **3. Bidding**

Prices will be called in Euro.

The minimum bid is:

<b>Foals</b>	€ 3,000.00 Euro
--------------	-----------------

Bidding increments have to be at least 100.00 €.

The auctioneer determines the increments of bidding and other deviating minimum bids.

The final price in the auction is considered a net price.

### **4. Payment slip**

After the knock down, the buyer is required to sign a payment slip, which lists the object of purchase, the catalog number, the knock down price and the name of the buyer.

In case the buyer does not sign the purchase slip, or he/she indicates after signing the document that he/she will not pay for the foal, the organizer, via the inaugurated auctioneer, has the right to return the foal to the auction lot. The first bidder is held liable for his refusal of acceptance of the purchase.

### **5. Validity of the bid**

If any reasonable doubt about the validity of the bid arises, a claim as such has to be asserted immediately; at maximum no later than before the last foal is entered in the auction ring. Claims have to be addressed with the organizer's publicly inaugurated auctioneer as well as the auction conductor via its managing director. The auctioneer decides whether to annul the bid and place the foal back in the auction.

## 6. Billing

The billing is comprised of the knock down price during the auction, the individual V.A.T. as stated in the catalog for each seller (0%, 10.7% or 19%) = subtotal 1, sales price).

The organizer further adds 6% plus V.A.T buyer's fee (= subtotal 2), V.A.T. and 1.19% insurance (incl. insurance tax).

Subtotals 1 and 2 result in the gross price. In addition, the organizer adds an insurance fee of 1.19% including 19% insurance tax (see section 12 of these conditions of sale) on the knock down price.

In summary, the billing total results from:

### **Knock down price (net price)**

+ V.A.T. (depending on seller either 0%, 10.7% or 19%)

**= Subtotal 1 (sales price)**

+ 6% of net price buyer's fee

+19% V.A.T. on the buyer's fee (according to §§ 12, 2 UStG)

**= Subtotal 2**

Subtotal 1 + subtotal 2

**= Gross price**

+1.19% insurance (including 19% insurance tax) on the net price

**= Total billing amount**

The seller's payment request, which must be settled by the buyer, has been assigned to the organizer to be settled. The settlement of payment between the organizer and the seller has been agreed upon according to the auction terms.

The total billing amount is to be paid by the buyer via cash payment or check immediately after knock down is achieved at the organizer's sales office, or within 7 days of the auction via wire transfer to the account of organizer. Fees and interest associated with check payments are the responsibility of the buyer. If paid by check, the full purchase price is only then considered paid when the check is fully cleared.

Until the full outstanding billing amount has been settled with the organizer, the foal remains the property of the seller (according to § 449 BGB). The foal remains in custody of the seller until 6 months after birth.

The seller irrevocably cedes the right to sue regarding any assertion of the purchase price and any associated costs to the organizer.

## 7. Agreement on the legal and factual nature

The legal and factual nature of the foals is agreed upon by both seller and buyer and include the pedigree as outlined in the catalog, as well as statements regarding gender, color, date of birth and performance results, if applicable.

In addition, a photograph of the foal may be included in the catalog. These photos are not part of the agreement on the legal and factual nature of the foal. These are not declarations of intent, but rather declarations of knowledge in terms of subjective opinion. No stipulation regarding specific abilities of the animals is made.

Die Verkäufer haben ihre Fohlen vor der Anlieferung durch einen von ihnen beauftragten Tierarzt klinisch untersuchen lassen.

Prior to arrival at the auction place, the sellers had their foals evaluated in a clinical exam. A protocol evaluating the obtained results has been prepared by the examining veterinary on account of the seller. This health report is available to all interested potential buyers and their veterinary consultants. The objective data/findings of the health report are considered as part of the legal and factual nature.

Any further comments regarding classifications, prognosis or evaluations in the health report are not part of the legal and factual nature. They are regarded as subjective opinion only.

Each foal, for which parents no test results for WFFS status is known, will be screen for genetic defects concerning WFFS. Results from these tests for all foals are available for viewing by potential buyers and/or their veterinarians. The WFFS test status is agreed upon as factual nature at the time of transfer of risk (Chapter 10).

The organizer informs that potential buyers can arrange for further veterinary exams that exceed the above mentioned protocols prior to the auction. Such extra exams are billed entirely to the prospective buyer and have to be coordinated with the auction organizer and arranged with the owner of the foal.

Any other properties and conditions of the foal that are not explicitly made public in the auction office by veterinary protocols are considered imponderable, ambiguous, and potentially fraught with risk.

### **8. Used goods**

All foals offered in the auction are considered used goods with regards to their training to lead, load and travel. They are further marked by microchips and/or brands, have been examined by a veterinarian, and have been trimmed by a farrier. Any other use, e.g. by participation at foal shows or competitions are outlined in the auction catalog.

### **9. Non-warranty clause/liability disclaimer**

**a)** Any liability related to the condition of the foals at auction is limited to an intentional or grossly negligent breach of the representations described in Section 7, above. All warranties for defects and warranty rights are excluded, released, and disclaimed. This release does not apply to claims for damages arising from personal injuries to life, body and health due to negligence from the seller, its legal representatives or its employees or agents.

This release of liability also does not apply for damages, which result from any other intentional or grossly negligent violation of a legal duty by the seller, its legal representative or its employees or agents.

#### **b) Time limit for notice of defects**

The buyer is required to file any potential claims in writing within four (4) weeks of the close of the auction, addressed to the seller.

To observe the time limit, arrival of the notice at the seller's address serves as basis.

#### **c) Procedure for remedy of defects**

If a buyer is entitled to relief resulting from the breach of a statutory warranty rights and/or based upon a claim that a purchased foal deviates from the official representations of the seller described above, the seller may choose to remedy such defects.

The buyer agrees to accept the seller's correction of any correctable defect.

The buyer must inform the seller in writing that a defect exists and must make the foal available for pickup. Alternatively, the seller has the right to request that the foal be made available for pickup at the buyer's location. If the foal is not made available for pickup, than any claim shall be denied and may not be maintained.

The seller must prove, though the report of a veterinarian, that any defect has been satisfactorily remedied within the timeframes stated above.

Buyer's claims are excluded in case of unsuccessful remedy of defects and rescission of the contract. This does not apply to damages caused by the deliberate or grossly negligent violation of a legal duty resulting in harm to body, life or health by the consigner/organizer, the auctioneer, their legal representative, or their employees or agents.

#### **d) Claim of damages**

If a defect cannot be remedied, the seller shall rescind the sales contract and refund of the sales price as well as any actual costs of feeding and board, necessary farrier work and veterinary work incurred since the sale. The seller shall not be liable for any costs resulting from the usage of the foal and the potential loss of value based on such usage.

The buyer and seller agree that board, including feeding, for the duration of any claim shall be reimbursed at a cost of 180.00 Euro per month. If it is not possible for a buyer to guarantee board and feed at this price, the organizer agrees to place the foal in such board for the duration of the claim. The buyer is required to accept this offer. Claims of abatement are excluded.

Also, claims by the buyer in case of unsuccessful rectification of defect are exempt. This release does not apply to claims for damages arising from personal injuries to life, body and health due to negligence from the seller, his/her legal representatives or his/her employees or agents.

#### **e) Statute of limitations**

Any potential claims for remedy of defects or damages are must be asserted within 3 months of transfer of risk.

Any limitation on the statute of limitations as set forth herein shall not apply claims are made based on an intentional or grossly negligent action of the seller, his/her legal representatives or his/her employees or agents.

### **10. Acceptance of the foal and transfer of risk**

**a)** The buyer is required to pick up the foal 6 months after its birth at the seller's location. Until that time point, the seller carries all risk as well as all costs for farrier and veterinarian. After the end of the 6 month timeframe, all costs and the risk/danger are transferred to the buyer.

An earlier acceptance and pickup is possible as long as the buyer agrees. In that case, this new time point marks transfer of costs, risk/danger.

If the buyer is late regarding the pickup of the foal, he/she is required to carry all boarding costs as well as costs associated with veterinary and farrier work, etc. If this case arises, the buyer signs a contract with the commission agent/exhibitor of the foal for board (under the exhibitor's terms). Board payments are to be transferred to the exhibitor directly.

**b)** The risk of a random deterioration or demise of the acquired foal is transferred to the buyer 6 months after its birth.

**c)** At the time of transfer of risk (no later than 6 months after date of birth), a clinical exam will be conducted on behalf of the seller, who is responsible for all associated costs. All results of this clinical exam will be made available as a veterinary certificate. Acceptability has to be documented in a clinical certificate. In case of reasonable doubt regarding the result of the clinical exam, one of the four following veterinary hospitals has to be authorized on behalf of the buyer to examine the health status to determine acceptability of the foal. All associated costs are the responsibility of the buyer. The result of this exam is generally binding for all parties. The following veterinary hospitals are appointed as leading experts:

Equine Hospital Bargteheide, Alte Landstraße 104, 22941 Bargteheide

Prof. Dr. Walter Brehm, University of Leipzig Faculty of Veterinary Medicine, Dept. of Surgery, An den Tierkliniken 21, 04103 Leipzig

Equine Hospital, Kiebitzpohl 35, 48291 Telgte

Equine Hospital, Dr. Große-Lembeck, Vaterstettener Weg 6, 85599 Parsdorf

## **11. Insurance**

With the knock down (final bid), all foals are insured by the Vereinigte Tierversicherungen (VTV) for a maximum of 25,000 Euro against death due to disease or accident as well as loss of use for riding purposes due to disease or accident, theft, robbery and death or euthanasia due to fire, lightning or transport-related damages resulting from the first transport from the auction venue to the first buyer's stable. Compensation is set at 80%. Insurance coverage covers the first eight (8) weeks after the auction, and at least until the foal has reached full six months of age. The buyer has the opportunity to extend this insurance on his own account and payment within the timeframe mentioned above. Under these circumstances, no new veterinary protocol or waiting period is necessary. Information is available from the VTV chief agency, Alexander Kuschel, phone: +49 (0)4324/882390. Mr. Kuschel is available during the auction at 0171/7784147.

## **12. Inclusion of the auction conditions**

The conditions of sale are printed in all auction catalogs. They are also available from the auction office, where they are posted publicly. A note announcing the public display is placed on the auction grounds.

## **13. Application of law**

For this auction and all potential out of court and legal measures regarding the terms and conditions of the contract of sale or this auction, German formal law (ZPO of GVG) and German material law (BGB and HGB) applies

## **14. Place of fulfillment and jurisdiction**

For all services rendered within the framework of the contracts, and disputes between the buyer and the organizer, the place of performance is Neumünster. If the buyer is a merchant, the place of fulfillment is Neumünster. Place of jurisdiction is also Neumünster.

The agreement about the place of fulfillment and jurisdiction is applicable as long as the buyer is no merchant, a corporate body under public law or otherwise an entity/customer incorporated under German public law or a specialized agency subject to German public law.

**15. Salvatorische Klausel**

If any or several of the conditions listed above should become void, this will not affect any other conditions.

**16. Superiority of the German version**

Conditions of sale are available in German and English language. In case of discrepancy, only the German version is binding. When interpreting, the German version is the authoritative version.