

AUCTION TERMS AND CONDITIONS

EDS-PRINSENSTAD ONLINE FOAL AUCTION 2022

The English translation below is for informational purposes only. The original Dutch text is legally binding.

GENERAL

1. These Auction terms and conditions (hereafter: "Auction Terms and Conditions") apply to all legal relationships between the private limited liability company Excellent Dressage Sales B.V. (hereafter: "EDS") and the parties participating in the online foal auction ("Auction") via internet at www.online.excellentdressagesales.com ("Auction site"), organised by EDS, on 27 August 2022. Those who bid on (a) foal(s) during the Auction (hereafter: "Bidder"/ "Buyer") are deemed to have accepted the applicability of these Auction Terms and Conditions. The applicability of general terms and conditions other than these Auction Terms and Conditions is expressly excluded.
2. EDS organises and facilitates the Auction and auctions the foals as commissioned by a vendor ("Vendor").
3. The Buyer is the party that bids during the Auction which EDS accepts, as instructed by the Vendor, as the highest bid. A purchase agreement ("Purchase Agreement") is concluded between the Vendor and Buyer at the moment EDS accepts a bid from the Bidder/Buyer as the highest bid ("Exit Amount").
4. All clauses in these Auction Terms and Conditions also apply to all persons who work or have worked for EDS on behalf of and/or in its name. These persons may directly invoke the provisions in these Auction Terms and Conditions as if they were EDS.
5. All amounts stated in the Auction Terms and Conditions exclude VAT, unless explicitly stated otherwise.

AUCTION AND RIGHT OF REVOCATION

6. The Auction takes place under supervision of EDS and a civil law notary. EDS has the right to refuse anyone access to and/or participation in the auction, without being required to state a reason, or to attach additional conditions to participation in the Auction.
7. To participate as a Bidder in the Auction, one must register in the manner prescribed by EDS and must, without reservation, accept the conditions and procedures that apply to the Auction and/or are declared by EDS. EDS reserves the right to refuse and/or unilaterally terminate registration for the Auction and participation, or further participation, of a Bidder in the Auction at its own discretion. The Bidder must register digitally on the Auction Site before participating in the Auction. The Bidder will receive a strictly personal username and password to access the bidding system. The Bidder is responsible for all transactions which take place at the Auction and which result from the use of the Bidder's username and password. Bids are made digitally / electronically. The highest bid per foal is stated on the Auction Site.
8. The Bidder accepts the special circumstances which may arise with an online auction, including technical difficulties which prevent a bid from being placed on time.

9. The bidder with the second highest bid shall keep his / her offer valid for 14 days after the closing of the online auction in case the highest bid is declared invalid or unfulfilled.
10. The foals offered for Auction will be put up for auction/sold outright, without proceedings or recompense, in the state they are in at the conclusion of the Purchase Agreement, without any liability on the part of EDS in connection with the value, condition and/or quality of the auctioned foals. The risk of loss of and/or damage to and/or damage caused by the auctioned/purchased foal rests with the Bidder/Buyer from the moment the Purchase Agreement is concluded.
11. The Bidder/Buyer bids at his/her own risk and account, and is obligated to his/her bid until a higher bid has been accepted.
12. EDS cannot guarantee that the Vendor is able to transfer a free and unencumbered title of ownership of the auctioned foal to the Bidder/Buyer, and EDS is not liable for any losses or damages related to title of ownership transfers.
13. If the Bidder / Buyer is assisted by a broker, the Bidder / Buyer shall notify EDS of the broker prior to the Auction; otherwise, there is no right to commission.
14. As long as EDS has not received full payment from the Bidder / Buyer, also under any other Purchase Agreements, the Seller remains the owner of the foal. Until then, EDS has a right of retention on the foal. The Seller is only entitled to deliver the foal sold to the Buyer after EDS has given written permission.
15. In case the Buyer is a consumer and Seller is a non-consumer the Buyer can dissolve a Purchase Agreement in relation of a foal through the Auction (Internet sale) for a period of up to 14 days after the surrender / delivery of the foal without stating a reason, based on the statutory right of revocation of Article 6:230o et al. of the Civil Code. If the Buyer wishes to exercise this right of revocation, he / she shall notify EDS and the Seller. Upon dissolution of the Purchase Agreement, the Buyer shall return the foal to the Seller at the Buyer's expense and risk. During the cooling-off period and return, the buyer shall handle the foal with care and, if provided, according to the seller's instructions.

INFORMATION

16. EDS compiles its catalogue as carefully as possible. The information on the auction website is intended to provide an impression of the quality of the foals offered for Auction, without EDS intending the information to be complete and without conferring any rights.
17. The foals offered for auction underwent a veterinary clinical examination between 30 July 2022 and 13 August 2022. Based on the veterinary clinical examination, a veterinary report was drafted according to KNMvD standards. This report may be viewed on request prior to the Auction.
18. The content of the aforementioned veterinary reports is binding for EDS, the Vendor and the Bidder/Buyer.
19. The foals offered for auction may be viewed prior to the Auction at a location and time to be specified by EDS, to the extent possible and permitted by government measures.

EXIT AMOUNT, BUYER PREMIUM, PURCHASE PRICE, BUYER PAYMENT OBLIGATIONS

20. Immediately following the Auction and on the same day, the Buyer will pay the Purchase Price to EDS in euros via bank transfer to EDS's account number, without a discount or adjustment. The Purchase Price is calculated as follows: the Exit Amount increased by an amount equal to 10% of the Exit Amount ("Buyer Premium"), plus the applicable VAT rate.
21. The VAT rate depends on the capacity/nationality of the Vendor, Buyer and on applicable regulations.
22. In the event the Purchase Price is not paid in a timely manner, the Bidder/Buyer will be in default and EDS will have the right to immediately sell the foal privately, whereby the bid of the original Bidder/Buyer is no longer valid. The Bidder/Buyer is never entitled to any profit from a private sale and is obligated to pay the difference in case of less profit to EDS. EDS is then authorised, without giving notice of default to the Vendor or requiring consent from the Vendor, to consider the Purchase Agreement dissolved, without the Bidder/Buyer being entitled to compensation of any kind. If the Buyer is in default, EDS has the right to retain the foal; and the Bidder/Buyer shall owe EDS administration fees equal to 6% of the Exit Amount. The Bidder/Buyer shall also owe EDS any judicial and/or extra judicial costs for collecting EDS's claims against the Bidder/Buyer, subject to a minimum of €1,000. The Buyer has no right to any price adjustment.

SURRENDER/DELEVIRY, TRANSFER OF REGISTRATION AND COLLECTION

23. As soon as the Buyer has fulfilled all EDS – Prinsenstad Terms and Conditions of the Online Foal Auction 2022, EDS will notify the Seller of such. From that moment, the Seller is obligated to perform the following: hold the foal at the Buyer's risk; surrender / deliver the foal (including horse passport, insofar as already provided by a competent authority); and transfer registration of the foal to the Buyer. The Buyer shall collect the foal in the Netherlands no later than 30 October 2022, or earlier if the Seller and the Buyer mutually agree, at an address to be communicated by the Seller to the Buyer.

EXCLUSION AND LIMITATION OF EDS'S LIABILITY

24. EDS is not liable for any loss caused by incorrect and/or incomplete information provided, regardless of the nature and scope of the loss; regardless of the information; and regardless of the source of the information.
25. EDS is not liable for loss arising prior to, during and/or after the Auction caused by or to persons and/or to property and/or to foals.
26. EDS is not liable for damage, either direct or indirect, regardless of the nature and scope of the damage resulting from a failure to meet an obligation by a third party or third parties.
27. EDS is not liable for failure to comply with any obligation resulting from strikes, shortages, riots, disturbances, fire, floods, storms, explosions, natural disasters, war, epidemics and / or pandemics, government intervention and measures, labor conditions, earthquakes, lack of materials or any other circumstance over which EDS has no reasonable influence.

28. The Bidder/Buyer is liable for any damage caused by Bidder/Buyer and indemnifies EDS against any third-party claim or claims, including but not limited to, Vendors and/or Bidders/Buyers, related to such damage, regardless of the nature and scope of the damage.
29. Any exclusion of liability on the part of EDS does not apply if EDS has acted with intent or is guilty of gross negligence.
30. Any liability on the part of EDS will at all times be limited to a maximum of €10,000. In any case, the right to damages will lapse 12 months after the incident from which the loss arises and with respect to EDS's liability, without prejudice to the provisions in Article 6:89 of the Dutch Civil Code (BW).

VALUE ADDED TAX (VAT)

31. For the purpose of VAT, EDS is considered an entrepreneur. Changes with respect to the applicable VAT rate may result in a proportional adjustment of that rate.
32. If an auctioned foal is transported to another EU member state at the request of the Bidder/Buyer, the VAT on the invoice is itemised as zero. In such case, the Bidder/Buyer shall fulfil obligations of a legal intra-community transaction.
33. If application of the zero VAT rate is subsequently not possible due to any circumstances, the Bidder/Buyer shall at that time pay a VAT rate equal to the amount payable if the auctioned foal in question were to be delivered to a location in the Netherlands. In such case, at the request of EDS, the Bidder/Buyer shall immediately pay EDS the applicable VAT rate. In that event, repayment of this amount will only take place if the Bidder/Buyer has met the conditions set out in Clause 28 to the satisfaction of EDS. The Bidder/Buyer is liable for and indemnifies EDS against, at a minimum, all loss arising from failure to meet the conditions set out in Clause 28. In addition, the Bidder/Buyer is also liable for all judicial and extra judicial costs incurred by EDS, subject to a minimum amount of € 1,000 including VAT.
34. The applicable VAT rate for each foal to be auctioned will be announced prior to the Auction.

DISPUTES AND APPLICABLE LAW

35. The legal relationship between EDS and the Vendor, between EDS and the Buyer and between the Vendor and the Buyer is governed exclusively by Dutch law, with full exclusion of the Vienna Sales Convention (CISG). Only the District Court of Central Netherlands, location Utrecht, is competent to hear disputes.
36. The Dutch text of these Auction Terms and Conditions is binding.