

Online Auction Conditions Black Horses Auction 2020

GENERAL

1.

These Online Auction Conditions Black Horses Auction 2020 ("Auction Conditions") are applicable to the legal relationships between the private company Stoeterij Black Horses B.V. ("SBH"), with its registered office in Sliedrecht, the Netherlands, and participants in the online auction of horses organised by SBH via the internet at www.blackhorses-auction.nl ("Auction Site"), which will start on 29 July 2020 and end on 1 August 2020 ("Auction"). A party that makes a bid for a horse or horses during the Auction ("Bidder"/"Buyer") shall be deemed to have accepted the applicability of these Auction Conditions. The applicability of other general terms and conditions is excluded.

2.

SBH will organise and facilitate the Auction and is the seller ("Seller") of the horses to be auctioned.

3.

The Buyer is the party that makes the bid during the Auction that is accepted as the highest bid by SBH on behalf of the Seller. A purchase agreement ("Purchase Agreement") shall be concluded between the Buyer and the Seller as of the moment when SBH accepts a bid from a Bidder/Buyer as the highest bid ("Closing Price"). All of the clauses in these Auction Conditions have been made for the joint benefit of all those persons who work or have worked for, for the benefit of and/or on behalf of SBH. They can directly invoke the provisions of these Auction Conditions as if they were SBH itself.

4.

All the amounts stated in these Auction Conditions are excluding VAT, unless stated otherwise.

THE AUCTION AND RIGHT OF WITHDRAWAL

5.

The Auction will take place under the management of SBH. SBH will determine the order and the sequence of the Auction. SBH has the right to refuse any party access to and/or participation in the Auction, without having to give reasons for such, and/or to set (further) conditions for participation in the Auction.

6.

In order to participate in the Auction as a Bidder, registration must take place in the way prescribed by SBH, and the conditions and procedures that are applicable and/or are declared applicable by SBH for the Auction must be accepted. SBH reserves the right to refuse and/or unilaterally to end registration for the Auction and (further) participation of a Bidder in the Auction at any time for reasons of its own. The Bidder has to register at the Auction Site digitally in order to participate in the Auction. The Bidder will receive a strictly personal username and password which can be used to access the bidding system. The Bidder is responsible for all transactions that take place during the Auction and which arise out of the use of the Bidder's username and password. Bidding shall take place by digital/electronic means. The highest bid for each horse will be displayed on the Auction Site.

7.

The Auction will end at the time and date specified in advance. The duration of the Auction will be stated on the Auction Site. If a bid is received in the last five minutes before the specified close time, the open time will be (repeatedly) extended by another five minutes. The definitive close will then take place five minutes after the last bid.

8.

A Bidder accepts that exceptional circumstances can occur with an online auction, such to include technical imperfections, as a result of which a bid cannot be made on time.

9.

A bidder who has made the second-highest bid must honour his/her bid during a period of 14 days after the close of the online auction in the event the highest bid is declared invalid or is not honoured.

10.

The horses offered at the Auction will be auctioned/sold "as is" with all faults, in the condition they are in when offered at the auction, without any liability of SBH in connection with the value, the condition and/or the capacity of the auctioned horses. The risk of loss of and/or of damage to and/or damage caused by the auctioned/purchased horse shall lie with the Bidder/Buyer as of the moment of conclusion of the Purchase Agreement.

11.

The Bidder/Buyer shall bid for their own account and risk and will be obligated to honour their bid until a higher bid has been accepted.

12.

As long as SBH has not received payment in full from the Bidder/Buyer, including any payments owed under any other Purchase Agreements, the Seller shall remain the owner of the horse. Up until such time, SBH shall have a right of retention on the horse. The Seller shall only have the right to release the horse to the Buyer after SBH has given its written permission for such.

13.

The Buyer can dissolve a Purchase Agreement in relation to the purchase of a horse via the Auction (Internet Purchase) during a period of up to 14 days after release/delivery, without having to give reasons for such, pursuant to the statutory right of withdrawal under Article 6:230o et seq. Dutch Civil Code. If the Buyer wants to exercise this right of withdrawal, he/she must notify SBH and the Seller about such in writing, by registered letter, with the notification that the Buyer wishes to exercise his/her right of withdrawal. After dissolution, the Buyer shall be obligated to send the horse back to the Seller for the account and risk of the Buyer. During the reflection period and the return transportation, the Buyer shall handle the horse with the appropriate due care, and in accordance with the instructions of the Seller insofar as issued.

INFORMATION

14.

SBH has compiled the Auction Site with the utmost of care. The information on the Auction Site is aimed at giving an impression of the quality of the horses offered at the Auction, without SBH thereby striving for completeness and no rights can be derived from such.

15.

The horses offered at the Auction have been examined clinically by a veterinarian. Veterinary reports of the veterinary clinical examinations have been drawn up in accordance with the standards of the Royal Netherlands Veterinary Association (KNMvD), which can be inspected up to the end of the Auction by making a request for such to SBH.

16.

The horses, with exception of the horses labelled as 'Broodmares', offered at the auction have undergone a radiographic examination with the taking of x-rays of the back and neck and for the indications of ringbone in both fore limbs, osteochondrosis in the knee joints of both hind limbs, osteochondrosis in the hock joints of both hind limbs, osteochondrosis in the fetlock in all limbs, and fetlock joint arthritis in both fore limbs, sesamoid bones in both fore limbs, hock joint flaps in both hind limbs and ancillary findings. The quality of the x-ray images will conform to the criteria of the most recent regulations on "veterinary examinations of horses" of the KNMvD. The x-ray images have been made within three months prior to the Auction. The x-ray images and a copy of the veterinary report drawn up on the basis of such can be inspected up to the end of the Auction by making a request for such to SBH.

17.

The contents of the aforementioned veterinary reports will be binding for SBH, the Seller, and the Bidder/Buyer.

18.

The horses offered at the Auction can be inspected prior to the Auction at a time and place to be determined by SBH, insofar as possible and permitted under the (government) measures associated with the coronavirus.

CLOSING PRICE, BUYER'S PREMIUM, PURCHASE PRICE, PAYMENT OBLIGATIONS OF THE BUYER

19.

The Buyer must pay the Purchase Price in Euros to SBH within 72 hours after the moment of conclusion of the Purchase Agreement by transfer to the bank account number in the name of SBH, without any discount or set-off. The

Purchase Price will be calculated as follows: the Closing Price will be increased by an amount equal to 7,5% of the Closing Price ("Buyer's Premium"), plus the applicable VAT rate. The VAT rate will depend on the capacity/nationality of the Seller, the Buyer, and the applicable regulations.

20.

In the event of a failure to make timely payment of the Purchase Price, the Bidder/Buyer shall be in default and SBH shall have the right to immediately sell the horse privately, whereby the bid of the original Bidder/Buyer will become null and void. At no time shall the Bidder/Buyer be entitled to surplus proceeds in the event of a private sale, and shall remain obligated to compensate SBH for the lower proceeds. Furthermore, SBH shall then have the right to consider the Purchase Agreement as dissolved, on behalf of the Seller and without notice of default being required, and without the Bidder/Buyer being entitled to receive any compensation on account of such. In the event of a failure to perform by the Buyer, SBH shall have a right of retention on the horse, the Bidder/Buyer shall owe administration charges to SBH equal to 7,5% of the Closing Price, and the Bidder/Buyer shall owe SBH all judicial and extrajudicial costs associated with the collection of SBH's claim against the Bidder/Buyer, with a minimum amount of € 1,000. The Buyer shall not have any right of set-off.

RELEASE, DELIVERY, TRANSFER OF OWNERSHIP AND COLLECTION

21.

As soon as the Buyer has fulfilled all the obligations towards SBH under these Auction Conditions, SBH shall notify the Seller of such. As of that moment, the Seller shall be obligated to release/deliver and transfer the ownership of the horse (including the horse passport) to the Buyer, and the Buyer shall be obligated to collect the horse from an address in the Netherlands to be notified to the Seller by the Buyer within 4 days after that date. If as a result of (government) measures in connection with the coronavirus, both national and international, the Seller and/or Buyer are not able to fulfil these obligations, the Seller shall stable, train, and groom the horse entirely for the risk of the Buyer free of charge up to 14 August 2020, and thereafter for an amount of €20,- per day to be owed by the Buyer to the Seller. The release/delivery and collection obligation, and the period associated with such, will then be suspended until the date on which these (government) measures no longer prevent such.

EXCLUSION AND LIMITATION OF THE LIABILITY OF SBH

22.

SBH will not be liable for any damages caused by the issuing of inaccurate and/or incomplete information, regardless of the nature and extent of such damages or of that information, and regardless of the source of that information.

23.

SBH will not be liable for any damages that arise prior to, during, and/or after the end of the Auction that are caused by or to persons, and/or by or to property, and/or by or to horses.

24.

SBH will not be liable for any damages, either direct or indirect, and regardless of the nature and extent of such, as a result of any shortcoming in the fulfilment of an obligation by a third party or third parties.

25.

SBH shall not be liable for the non-fulfilment of any obligation as a result of strikes, shortages, riots, civil unrest, fire, floods, storms, explosions, natural disasters, war, epidemics and/or pandemics, government interventions, working conditions, earthquakes, material defects, or any other circumstance over which SBH cannot reasonably exercise any control.

26.

The Bidder/Buyer will be liable for all damages caused by it, and shall indemnify SBH against any claims of third parties, such to include, but not limited to, Sellers and/or other Bidders/Buyers, in connection with these damages, regardless of the nature or extent of such.

27.

Exclusions of the liability of SBH shall not apply in the event of any wilful misconduct or gross negligence on the part of SBH which is imputable to SBH.

28.

Any liability of SBH will at all times be limited to a maximum amount of € 10,000. Notwithstanding the provisions of Article 6:89 Dutch Civil Code, entitlement to

compensation shall in any event expire 12 months after the event that is the cause of the damage or loss and for which SBH is liable.

TURNOVER TAX (VAT)

29.

SBH is registered for turnover tax (VAT). Changes to the applicable VAT rate can lead to a corresponding adjustment of the applicable VAT percentages.

30.

If in relation to the delivery of an auctioned horse to another Member State of the European Union invoicing with zero rate VAT takes place at the request of the Bidder/Buyer, the Bidder/Buyer obligates itself to fulfil all the necessary conditions in order to effect a legally valid intra-Community transaction.

31.

If the application of zero rate VAT (subsequently) proves not to be possible due to any circumstances whatsoever, as of that moment the Bidder/Buyer shall then owe an amount equal to the amount that would have been owed in the event of a domestic sale of the relevant horse. At the request of SBH, however, the Bidder/Buyer will be obligated to pay the aforementioned amount immediately to SBH. In that case, the repayment of such shall only take place if and when the Bidder/Buyer has fulfilled the conditions to the satisfaction of SBH. The Bidder/Buyer will in any case be liable for and shall indemnify SBH against all damages that arise out of the non-fulfilment of the conditions. Furthermore, the Bidder/Buyer will be liable for all judicial and extrajudicial costs incurred by SBH, with a minimum amount of € 1,000.

32.

Prior to the Auction, an announcement will be made about the applicable VAT regime under which each horse is being auctioned.

DISPUTES AND APPLICABLE LAW.

33.

The legal relationships between SBH and the Seller, between SBH and the Buyer, and between the Seller and the Buyer shall be exclusively governed by Dutch law, with the total exclusion of the Vienna Sales Convention (CISG). Disputes will be settled in accordance with the Arbitration Regulations of the NAI (Netherlands Arbitration Institute) by a single arbitrator to be appointed in accordance with the list procedure. The arbitration will take place in Utrecht. The arbitration proceedings will be held in Dutch. If the Buyer is a consumer, then at his/her written request the District Court of Central Netherlands, Utrecht location, shall have competence to hear the dispute. If the Seller and/or SBH wants to institute dispute settlement proceedings and the Buyer is a consumer, the Seller/SBH shall give the Buyer a period of one month to give a written notice of the Buyer's choice to have the dispute settled by NAI arbitration or by the District Court of Central Netherlands, Utrecht location. In the event of an urgent interest (preliminary relief proceedings), the Seller/SBH can reduce this period to five working days.

34.

The Dutch text of these Auction Conditions is binding.