

Tops International Auction

GENERAL AUCTION CONDITIONS 2023

Article 1. Definitions

1. In these Auction Conditions, the following definitions apply:
 - a. **Agreement to buy and sell the Horse:** the agreement to buy and sell the Horse which, after Knock Down, is concluded between the Buyer and the Seller, as described in Article 5.1;
 - b. **Article:** an article in these Auction Conditions;
 - c. **Knock Down:** the statement of TIA, or the Auctioneer to the Buyer, stating that the Horse has been assigned to the Buyer, which immediately establishes an Agreement to buy and sell the Horse;
 - d. **Auction:** the auction organised by TIA, in which can be participated both online and in person;
 - e. **Auction Catalogue:** the auction catalogue with regard to the Auction, which is provided prior to the Online auction to the participants thereof by publication on the Auction Website, and is provided prior to the Physical auction to the participants thereof by handing it to them;
 - f. **Auction Conditions:** these general auction conditions 2023;
 - g. **Auction Costs:** costs charged by TIA to the Buyer, namely 10% of the Purchase Price, excluding VAT. TIA is exclusively entitled to the auction costs;
 - h. **Auctioneer:** an auctioneer appointed by TIA to conduct the Auction;
 - i. **Auction Website:** the TIA website on which the Online auction will take place, with URL: www.staltops.com;
 - j. **Bidder:** a person who has registered him/herself on the Auction Website, or at the Physical auction, to bid on Horses as a potential Buyer during the Auction;
 - k. **Buyer:** a natural person, partnership or legal entity who, after Knock Down, occurs as a buyer in the Agreement to buy and sell the Horse;
 - l. **Consumer:** a Buyer who is a natural person and who is not acting in the course of a profession or business;
 - m. **Delivery:** the moment that the Horse is actually physically delivered to an address indicated by the Buyer, thus being the moment that the Horse actually steps out of the carrier and sets foot on the delivery address;
 - n. **Horse:** a Horse selected by the Selection Committee for the Auction, unless expressly stated otherwise.
 - o. **Notary:** the notary appointed by TIA and before whom the Auction takes place;
 - p. **Online auction:** the Auction on the Auction Website;
 - q. **Physical auction:** the Auction at the location where it is held;
 - r. **Purchase Agreement:** the written agreement that serves to prove the conclusion of the Agreement to buy and sell the Horse which is concluded at the Physical auction. On request, the draft Purchase Agreement can be viewed prior to, as well as during the Physical auction;
 - s. **Purchase Price:** the amount for which Knock Down of the Horse during the Auction was made by TIA to the Buyer, excluding the Auction costs and any VAT;
 - t. **Request for Auction:** the Seller's written request which has been accepted by TIA to auction the horse during the Auction, which expressly does not imply any obligation for TIA to auction the horse;
 - u. **Secretariat:** the TIA secretariat with contact details: auction@staltops.com;
 - v. **Selection Committee:** the TIA committee charged with selecting the Horses;
 - w. **Seller:** a natural person, partnership or legal entity who has offered his/her horse to be auctioned during the Auction by submitting a Request for Auction;
 - x. **TIA:** Tops Horse Trading B.V., with its registered office in Valkenswaard, having its office at Maastrichterweg 249 (5556 VB) Valkenswaard, and registered in the trade register of the Chamber of Commerce under number 17137660;
 - y. **VAT:** turnover tax;

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- z. **Veterinarian:** a veterinarian, specialized in horses.
2. The terms defined above in this Section 1 shall have the meaning set forth in these Auction Conditions. These terms can be used in singular or plural without losing their meaning.

Article 2. General

1. These Auction Conditions apply to all Agreements to buy and sell the Horse concluded during the Auction, Purchase Agreements, the Request for Auction, as well as to all agreements arising therefrom or related thereto.
2. By providing the Auction Catalogue, TIA has ensured that Bidders have been able to take note of these Auction Conditions in due time before the start of the Auction.
3. The Auction Conditions are included in the Auction Catalogue and on the Auction Website. The Auction Conditions are binding and drawn up in the Dutch language. If the Auction Conditions and/or the Purchase Agreement are drawn up in another language, in the event of an (interpretation) dispute about the content or scope of these Auction Conditions and/or the Purchase Agreement, the Dutch version will prevail. A translation of these Auction Conditions and/or of the Purchase Agreement is only for support purposes.
4. By participating in the Auction, each Bidder indicates that they are familiar with these Auction Conditions, agree with their content and accept their applicability to the Agreement to buy and sell the Horse, the Auction, the Request for Auction and/or the Purchase Agreement(s).
5. The Seller undertakes and is obliged to have the horse clinically inspected by a Veterinarian no later than five (5) days prior to the start of the Auction, to submit the resulting inspection report to the Secretariat no later than three (3) days prior to the Auction, as well as to submit X-rays based on TIA's veterinary inspection protocol to the Secretariat no later than three (3) days prior to the Auction. This veterinary inspection protocol is available on request at the Secretariat. The deadlines in this Article 2.5 may be deviated from if it is not reasonably possible to meet these deadlines and TIA has given its prior written approval.
6. The Buyer has the right to view the veterinary inspection report and the X-rays. In the event that a discussion arises about the state of the Horse at the time of Delivery or later, the veterinary inspection report of the Seller's Veterinarian is leading.
7. The Seller guarantees that at the time of the auction, the Horse is free of unauthorized substances as included in the most recent FEI list of unauthorized substances, with the exception of unauthorized substances for which a Veterinarian's statement is submitted and which has been administered in view of/in connection with the health of the Horse.
8. The Horses can be viewed by appointment, which appointment can be made at the Secretariat. Viewing can take place physically at the Seller, as well as remotely by means of photos and videos.
9. If any (paragraph of an) Article of these Auction Conditions, or (a paragraph of) an article from the Request for Auction, the Purchase Agreement or any other agreement arising therefrom or related thereto should prove to be void or voidable, the remaining Articles/articles remain in full force and effect. The parties then undertake to replace the relevant (paragraph of) the Article/article with a new Article (paragraph) which is not void or voidable and which article (paragraph) corresponds as much as possible to the void or voidable Article/article (paragraph), taking into account the content and scope of these Auction Conditions and the Purchase Agreement.

Article 3. Preparation, execution and supervision Auction

1. TIA organizes the Auction and acts as intermediary between Seller and Buyer. The Auction will take place before and under the supervision of the Notary, and will be led by the Auctioneer.
2. The preparation and execution of the Auction are determined exclusively by TIA and the Auctioneer. TIA determines the course of events prior to and during the Auction and has the authority, without giving reasons, to admit or not to admit persons to the Auction or to refuse further participation in the Auction, not to auction or not to assign one or more Horses, to change the order of auctioning, not to recognize a bid

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and/or to declare a bid invalid, to suspend, resume, extend or cancel the Auction and/or to take any other measures it deems necessary.

3. Bidders who wish to participate in the Online auction must register him/herself on the Auction Website in the manner determined/indicated by TIA. Each Bidder receives a username and password and is responsible for his/her digital actions. By registering, Bidders declare to be familiar with the Auction Conditions and to unconditionally agree with its content and agree to be bound by it.
4. During the Auction TIA and the Auctioneer have the right to correct inaccuracies in statements made by or on behalf of them (oral and/or written) as well as to correct mistakes, whether or not made during the Auction. This provision does not deprive TIA and the Auctioneer of the right to correct inaccuracies in statements made by or on behalf of them (oral and/or written) after the Auction has taken place, nor of the right to correct mistakes, whether or not made during the Auction.
5. Those participating in the Auction are obliged to follow the instructions and indications given by or on behalf of TIA and to accept the fact that technical malfunctions may occur during the Online auction as a result of which digital bids may not be processed properly.
6. TIA does not guarantee that the Seller can sell the Horse free and unencumbered and transfer it to the Buyer. TIA is not liable for any damages resulting therefrom.
7. TIA does not guarantee that the horse offered by the Seller will be auctioned at the Auction, that the Horse admitted to the Auction will be sold and/or that the Horse will be sold for a certain (minimum) amount.

Article 4. Method of auctioning

1. The Horses are sold by ascending auction in Euros, unless indicated otherwise, in the condition in which the Horses are at the time of auction (as is, where is).
2. The bidding takes place by (digitally) submitting a bid. In the case of the Physical auction, the submission of a bid is only valid if this is done by raising a hand or the Auction Catalogue. A bid submitted in any other way during the Physical auction is only valid if the validity of the bid is expressly acknowledged by the Auctioneer or by TIA at that time. With the Online auction a bid must be submitted in the manner described on the Auction Website.
3. Each Bidder is deemed to be bidding for him- or herself and is bound by his or her bid, which is deemed to be unconditional and irrevocable. A Bidder bids at his/her own risk and account. If a Bidder is mandated by a partnership of buyers, by a legal entity, or otherwise, this must be stated by the Bidder to TIA when registering the Bidder for the Online auction. A Bidder will be held to his/her bid until a higher bid is accepted. Every Bidder/Buyer must be able to identify themselves at the first request of the Auctioneer and/or TIA with a legal and valid identification document. If the Bidder/Buyer is unable or unwilling to identify him/herself at the first request, the Auctioneer and/or TIA is authorised to declare the bid/purchase invalid/not concluded and - if still possible - to have the Horse put up for auction again.
4. Unless the Auctioneer indicates otherwise, during the Auction the bidding will go as follows: up to € 500,000 (in words: five hundred thousand euros), the bidding steps amount to at least € 5,000 (in words: *five thousand euros*) per bid step and from an amount of € 500,000 (in words: *five hundred thousand euros*), the bidding steps are at least € 10,000 (in words: *ten thousand euros*) per bid step.
5. The Horse is assigned to the highest Bidder.
6. The Notary shall ascertain and record in a record of sale, per Knock Down of a Horse, the Seller, the Buyer as well as the Purchase Price (excluding the Auction Costs and any VAT) and any other relevant facts in respect of the Auction. The Notary excludes any liability in connection with and arising from the Auction and the Auction Conditions.

Article 5. Conclusion of the Agreement to buy and sell the Horse

1. From the moment of Knock Down, the Agreement to buy and sell the Horse is concluded between the Buyer and Seller on the terms set out in these Auction Conditions. From that moment on, the Buyer is obliged to pay the Purchase, plus the Auction costs and VAT (if applicable), to TIA on behalf of the Seller.

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2. The Agreement to buy and sell the Horse is concluded directly and exclusively between the Seller and the Buyer. TIA exclusively has the role of intermediary by facilitating the Auction.
3. After the Knock Down at the Physical auction, the Purchase Agreement will as soon as possible, but no later than three hours after the end of the Auction, be signed by or on behalf of the Seller and the Purchaser. If a party acts on behalf of another, such as but not limited to a partnership or a legal entity, this will be mentioned on the Purchase Agreement.
4. Failure by the Buyer and/or Seller to sign the Purchase Agreement does not affect the conclusion and legal validity of the Agreement to buy and sell the Horse and does not release the Parties from their obligations under the Agreement to buy and sell the Horse. The Purchase Agreement only serves to prove this at the Physical auction established legal relationship.

Article 6. Online auction and Consumers

1. The Horse purchased by a Consumer at the Online auction must comply with the Agreement to buy and sell the Horse and the Purchase Agreement.
2. In accordance with the provisions of Article 6:230p sub c of the Dutch Civil Code, the Consumer is not entitled to exercise the right of withdrawal referred to in Article 6:230o et seq. of the Dutch Civil Code.

Article 7. Payment and Delivery

1. After the Knock Down of a Horse, TIA draws up an invoice for payment of the Purchase Price, the Auction Costs charged thereon and – if applicable – VAT. The Buyer must pay the invoiced amount in full to TIA within 24 hours of the invoice date, in the manner described in the invoice. Payment of the Purchase Price by the Buyer must be made without deduction and/or (except when the Buyer is a Consumer) set-off. The Buyer can only pay in full discharge of its payment obligations by paying TIA in the manner described in this Article 7.1. The Buyer is not entitled to pay anyone other than TIA. If the Buyer pays to anyone other than TIA, the Buyer has not fulfilled its payment obligation.
2. If the Buyer does not (fully) meet its payment obligations in time, the Seller has the right to dissolve the Purchase Agreement and/or the Agreement to buy and sell the Horse, and to sell the Horse to a third party.
3. TIA will keep the Purchase Price on behalf of the Buyer until the moment of Delivery, and after the Delivery TIA will keep the Purchase Price on behalf of the Seller. The Purchase Price will not be paid to the Seller until after the Delivery has correctly taken place.
4. If VAT has to be levied on the Purchase Price of a Horse, this will be stated on the invoice to be drawn up by TIA. If there is a transfer of a Horse to another member state of the European Union, TIA may, at the request of the Buyer, draw up an invoice stating a zero VAT rate. In that case, the Buyer undertakes to comply with the conditions for a legally valid intra-Community transaction, and the Seller undertakes to cooperate with this. If it turns out that application of the reported zero VAT rate is not possible after all, then the Buyer is obliged to pay the VAT immediately after this has become known, and in any case at the first request of TIA to TIA. The Buyer indemnifies TIA against any damages resulting from non-compliance with the conditions of a legally valid intra-Community transaction. In case the Buyer is resident in a third country (not being a member state of the European Union), a zero VAT rate will be charged.
5. TIA pays, after the Purchase Price has been received from the Buyer, the Purchase Price minus (set-off) the Auction Costs owed by the Seller to TIA in the amount of 10% of the Purchase Price to the Seller in a bank account to be indicated by the Seller after Delivery of the Horse to the satisfaction of the Buyer and Seller. TIA is entitled to set off mutual claims between the Seller and the Buyer, but is not obliged to do so.
6. The Horse, as well as the Horse's passport and registration paper, will be delivered by the Seller to an address indicated by the Buyer located in the Netherlands, unless otherwise agreed between the Seller and the Buyer. Delivery takes place at the risk and expense of the Buyer, except in the event that the Buyer is a Consumer, which exception does not apply if the Consumer has appointed a carrier that was not offered by the Seller, and as soon as possible after receipt of the Purchase Price owed by the Buyer, plus the Auction Costs by TIA as referred to in Article 7.1.

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7. The ownership of a Horse does not pass to the Buyer until after the Buyer has fulfilled all his/her financial obligations under the Agreement to buy and sell the Horse and, if applicable, the Purchase Agreement.
8. From the moment of Knock Down, the Horse is for the risk and account of the Buyer, regardless of whether the ownership has already passed to the Buyer. During the time that the Horse has not yet been delivered, but the risk has already passed to the Buyer, the Seller is obliged to take care of the custody and safekeeping of the Horse with due care and diligence. If the Buyer is a Consumer, the Horse is for the risk and account of the Buyer from the moment of Delivery. If Delivery has not taken place at the agreed upon time for reasons attributable to the Buyer, the Horse is for the risk and account of the Buyer from the moment Delivery should have taken place.
9. Dissolution of the Purchase Agreement and/or the Agreement to buy and sell the Horse does not affect the payment obligations of the Buyer and the Seller towards TIA.
10. TIA shall not be liable for the consequences of non-compliance with the provisions contained in this Article.

Article 8. Default

1. If the Buyer considers that after the actual Delivery the Horse does not comply with the Agreement to buy and sell the Horse/Purchase Agreement, he must inform the seller of this within two (2) days after it has been established, or reasonable should have been established, that the Horse does not comply with the Agreement to buy and sell the Horse/Purchase Agreement, but in any case within two (2) weeks after the actual Delivery, by means of a registered letter to be sent to the Seller. The Buyer must send a copy of this letter to TIA. After a period of two (2) weeks after the actual Delivery, the Buyer can no longer claim that the Horse does not comply with the Agreement to buy and sell the Horse and the Purchase Agreement. In case of a Consumer-Buyer, a complaint must be made as soon as possible, but in any case no later than two (2) months after it has been established that the Horse does not comply with the Agreement to buy and sell the Horse/the Purchase Agreement, failing which the right to complain expires. The Consumer-Buyer can no longer invoke the fact that the Horse does not comply with the Agreement to buy and sell the Horse/the Purchase Agreement for defects that have been discovered after two (2) weeks after the Delivery, since the parties have agreed that this is a sufficient period within which a thorough examination (including but not limited to having a veterinarian inspect the Horse) for possible defects can be performed, and the Buyer may reasonably be required to carry out an investigation (or to have an investigation be carried out) with regard to the conformity of the purchased Horse within this period.
2. The Seller warrants that the Horse sold by him/her does not suffer from any of the stable vices: air sucking, systematic weaving or crib biting/cribbing for a period of eighty-four (48) hours after Delivery of the Horse by the Seller to the Buyer. If the Buyer refuses or is negligent to take delivery of the Horse at the agreed upon time, the aforementioned period starts at the moment that the Buyer should have taken delivery of the Horse.
3. If, after the moment of Delivery, one of the stable vices air sucking, systematic weaving or crib biting/cribbing is found by a Veterinarian, he/she shall provide a written statement to that effect, stating that this vice existed prior to the date of actual Delivery. The statement of the Buyer's Veterinarian shall be sent by the Buyer to TIA and the Seller by registered mail.
4. If the Seller does not comply with his/her obligation to auction the Horse or have it auctioned, he/she owes TIA an immediately due and payable fine of € 100,000 (in words: *one hundred thousand euros*).

Article 9. Liability

1. TIA excludes any liability towards the Buyer, the Seller and third parties and in particular, but not limited to the following cases:
 - a. the state of health of the Horses to be auctioned, including with regard to osteochondrotic abnormalities;
 - b. when a Horse mentioned in the Auction Catalogue is ultimately not offered for auction;
 - c. any accident or any form of damage incurred by someone in or near the grounds or buildings where

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there is an opportunity for viewing, where the Auction takes place or where the sold Horses are collected. Access to these sites and buildings is at everyone's own risk;

- d. indirect or consequential damage, such as but not limited to damage in the form of loss of profit.
2. TIA is not liable for errors in the Auction Catalogue with regard to the pedigree (these are the data relating to the lineage of the Horses to be auctioned) or with regard to other data. The Seller and the Buyer are responsible for checking the accuracy of this information. No rights can be derived from the (correctness of) this information and the Buyer and the Seller indemnify TIA for any third party claims with regard to any inaccuracies of the information.
3. The above limitations of liability of TIA do not apply if the damage is the result of intent or gross negligence of TIA and/or the management of TIA.
4. If, for whatever reason, TIA is liable regardless of the exclusions of liability contained in this Article 9 paragraph 1 up to and including paragraph 3, the total liability shall be limited to the amount which the liability insurance pays out, plus the amount of the deductible that is not borne by the insurer according to the insurance conditions. If in any case the insurer does not pay out or the damage is not covered by the insurance, TIA's liability will never exceed the Auction Costs.

Article 10. Applicable law and dispute resolution

1. These Auction Conditions and all agreements related to or resulting from these Auction Conditions are exclusively governed by Dutch law, with the exclusion of the applicability of the Vienna Sales Convention (CISG).
2. All disputes arising from these Auction Conditions or from further agreements related to or arising from these Auction Conditions must be submitted to the competent court in the district of Oost-Brabant. If the Buyer is a Consumer, for a period of one month after the other party has invoked this paragraph, the Buyer shall have the right to apply to the competent court for the assessment of the dispute, without prejudice to the Seller's and TIA's right to submit claims to which they are entitled to the Netherlands Arbitration Institute (NAI) in accordance with the then applicable arbitration rules of the Netherlands Arbitration Institute. The place of arbitration shall be Amsterdam and the proceedings shall be conducted in the Dutch language.