

## 1. General – Scope

(1) We, ISK GmbH, with entry in the Commercial Register AG Osnabrück HRB 3410, Am Borgberg 3, 49170 Hagen a.T.W. (hereinafter also referred to as the **organiser**), organise the auction of horses on the internet (here also referred to only as internet auction) on own account and on behalf of other parties (commission business). As organiser we base the Sale Contract with the Purchaser and the legal relation with the bidder on the present online auction conditions (hereinafter referred to only as **GTC**).

(2) Our **GTC** apply to the exclusion of any other terms and conditions; we neither recognise nor accept any terms and conditions other than our own OAC unless express prior written consent is given to the contrary. Our GTC likewise apply if we unconditionally execute delivery in the knowledge of any of the Purchaser's terms and conditions that might contradict or depart from our own terms and conditions.

(3) All agreements between us and the Purchaser with a view to execution of a concluded contract are set out in the present GTC.

(4) We reserve property right and copyright on images, videos, drawings, descriptions and other documents used by us for auction purposes. For communication to a third party the Purchaser, the Bidder and that third party require our express written permission.

(5) In principle our GTC apply in similar fashion to entrepreneurs (§ 14 BGB) and to consumers (§ 13 BGB) unless their application is expressly to particular clauses as regards their scope.

## 2. Design and processing of the online auction

(1) login (registration) and user account

Participation in an internet auction is only permitted to those natural or legal persons who have registered with the organiser. At the opening of the registration, all questions asked by the organiser in the registration form must be answered properly and correctly and any required copies must be enclosed. A registration can be deleted at any time without giving the grounds by sending an e-mail to [auction@psisporthorses.de](mailto:auction@psisporthorses.de). In this case, all registered data will be permanently deleted, as long as they are not required for an ongoing bidding process or the completion for an already completed transaction. The deletion takes place in this case only when it is finally precluded that the data is still needed. Otherwise in item. 8 of these Terms and Conditions

(2) Representation and Legal Capacity

(a) Natural persons can only register for use if they are of legal age and unlimited legal capacity.

(b) Authorized natural persons of a legal person must be named.

(c) After registering properly, the user will receive a temporary password. By using the confirmation link a new password must be created. Each user is required to keep the password secret.

(3) Procedure of the Internet auction

(a) The respective internet auction begins with an offer made by the organiser on the platform on the internet. This is a declaration of intent at the conclusion of a purchase contract. In the offer, the bidding time is determined by the indication "end of auction ". This offer cannot be accepted by a

simple “yes” but is a pre-declared acceptance of the highest bid. The organiser only accepts the highest bid which is submitted by a bidder in accordance with the terms of these GTC within the specified bidding period.

(b) Bids can only be submitted via the registered bidder template installed on the platform and only online. Bids made in other ways will not be considered, even if they are received by the organiser during the bidding period. Bids in which the bidder has not stated that he agrees to the validity of these GTC for his specific bid and the cancellation policy will also not be accepted. Bids submitted until the end of the auction, submitted to the registered bidder under “bid” in accordance with these GTC will only participate in the auction if they have been received by the organiser by the end of the auction. The transmission takes place at the risk of the bidder.

(c) By clicking on the “place bid” button on our internet platform the bidder submits a binding bid to the organiser to conclude a purchase contract. Each bid by each bidder will be resolved by offering a higher bid. The respective bidder is bound by the bid submitted until the end of the bidding period. Bids below the minimum bid will not participate in the auction, even if the organiser does not receive a higher bid until the end of the auction. The purchase contract for the auctioned horse is concluded without a separate surcharge by the effective highest bid of the registered bidders at the end of the bidding period.

(d) An effective bid must be in line with the minimum bid and, moreover, at least one bid above the bid by the provider. The bidding for the horses placed in the auction is € 500,00 up until a bid of €20.000,00, from €20.000,00 on the bidding is €1.000,00.

(e) Information of the conclusion of the contract

The bidder who made the highest effective bid at the end of the auction will be notified by e-mail or on an otherwise durable medium in writing. The receipt of the notification is the confirmation of the already concluded purchase contract and not an additional prerequisite for its conclusion. Bidders who have not submitted the highest bid will not receive notification. The highest bid is only mentioned anonymously on the platform immediately after the end of the bidding period.

The notification to the purchaser includes in accordance with § 312 f German Civil Code a confirmation of the contract, in which the content of the contract is reproduced and contains the information required in Article 246 of the Introductory Act to the Civil code.

(f) We are entitled, at our discretion, to block registered bidders for individual auctions of individual objects or for a specific period of time or in general and thus exclude them from the eligibility to participate in auctions in a limited or unlimited manner. This is only permissible if there is an important reason why it is no longer reasonable for us to maintain a legal relationship with the person being banned.

(g) The organiser may cancel an auction at any time before the end of the bidding period, if he decides to do so, on the basis of a factual reason at his reasonable discretion. In case of system failure due to technical conditions, the organiser is also entitled to cancel the auction. In this respect, we expressly reserve the right to revoke the respective offer made in the internet pursuant to Article 2.(4)(a). The decision on the cancellation will be communicated on the internet platform with a brief statement of the reason. The previous submitted bids expire without reimbursement. This reservation for the cancellation of our offer on sale to the highest bidder expires at an auction carried out accordingly to the announcement and ended at the end of the bidding period at the end of the auction, without the need for a separate declaration from us.

Claims for damages of bidders in case of technical problems of the settlement of the internet auction, in particular in case of system failure, inability to access bids or their rejection for technical reasons are excluded.

(h) During the current auctions, the organiser maintains a hotline which can be reached at the time indicated on the internet platform with the fees mentioned there, charged to the account of the caller. This hotline is only for resolution of process problems and not the receipt of bids. No promises or contractual agreements of any kind are made on the hotline.

### **3. Details of the auction object and the timing of the auction**

(1) The horses placed on the organiser's platform for auction will be offered with the following information:

Horse name, gender, age, colour, size, pictures, video, origin.

The above information is only a description of the auction object, we assume no guarantee for a corresponding condition and they are not content of a quality agreement with respect to the future purchase contract.

The sizes are approximate values. A difference from the actual size is possible.

With prior arrangements the horses can be inspected and tried out during the time of the ongoing internet auction.

(2) There is no guarantee of the fitness to breed of the assumed horse. In particular, the fertility of stallions and the breeding ability of mares were not tested by the organiser. Breeding potential or fertility are not a condition agreed on.

(3) The horses placed in the auction have been clinically examined in preparation for the auction. In addition, horses being 2 years old and older were X-rayed. X-rays of the following standard projections have been made:

-both distal joints front legs (90°) and oxspring (0°)

- both distal joints hind legs (90°)

-both hocks (45° to 70°, 90° to 115°)

-both knee joints (90° to 110°)

-additional x-rays: back

A clinical examination report has been prepared about the clinical investigation that has been carried out and can be viewed by the registered prospective buyers by request to [auction@psi-sporthorses.de](mailto:auction@psi-sporthorses.de). The bidder is strongly advised to have the veterinary examination report and the X-ray images independently interpreted at his own expense by a veterinarian. He may request the X-rays from the veterinarian at the bidder's expense. The bidder is strongly advised to make use of this option of information about the health status of the horse in his own interest. Due to technical reasons the request for said report can only be made until Saturday, 23/05/ 2020 1p.m (CET). The result in the form of an objective assessment of the written and viewable examination protocol and exclusively on the clinical examination, as well as the condition shown on the X-ray images, is a description of the condition of the horse entered in the auction, but does not represent a quality agreement in the sense of § 434 German Civil Code.

(4) Also stated is the minimum bid in EURO for the horse placed on the internet auction. The location of the horse during the auction and at the time after the end of the auction is with the organiser. Due to the technical and organisational handling of the internet auction, inspection of the horse is only possible after prior agreement with the organiser.

(5) For the timing of the internet auction, the following information is provided:

Start of the auction: Thursday, 21/05/2020, 07:00 (CET)

End of the auction: Saturday, 23/05/2020, 15:00 (CET)

#### **4. Prices, Terms of Payment and Collection**

(1) All prices and bids given are plus the commission fee (6%) and the applicable value added tax (currently 19%). This is shown separately on invoices.

The settlement amount is calculated as follows:

Hammer Price

plus 6% commission fee

Net Amount

plus value added tax according to sales tax law (19%)  
= Billing Amount

(2) The bid prices apply from the location of the horse to the pickup by the purchaser. The specified location is the place of fulfilment agreed under the concluded contract.

The shipping of the auctioned horse does not take place at the request of the purchaser. However, if requested we are ready to quote without obligation several forwarders to choose from who can take over the transport on behalf of and for the account of the purchaser for a standard delivery fee.

(3) With the conclusion of the purchase contract, the risk para. § 446 is on the buyer, even if the horse still remains in the custody of the organiser.

(4) With the confirmation of the purchase contract the bidder receives the invoice with the price and the sales tax indicated.

(5) The deduction of a discount is inadmissible.

(6) The bid price without deduction is due no later than within one week from the date of the invoice. The legal rules regarding the consequences of late payment apply. The handover of the auctioned horse to the purchaser or to the transporter takes place only after the payment of the purchase price. It is expressly indicated that according to the following paragraph. (8) additional costs may occur, even if payment is timely.

(7) The purchaser is only entitled to set-off rights if his counterclaims have been legally established, are undisputed or acknowledged by us. The purchaser is only authorised to exercise a right of retention to the extent that the counterclaim is based on the same contractual relationship.

(8) The auctioned horse can be picked up by the purchaser after the acquisition at the location of the organiser, either against concurrent payment of the purchase price or advance payment by the purchaser. Until then, the horse will be stored and supplied free of charge by the organiser. For this time being, the customer will be able to inspect and ride the horse. From the 14th day after the auction, we charge an amount of €50,00 plus statutory VAT per calendar day for the safekeeping and supply of the purchased horse, without prejudice for the continuing obligation to collect per calendar day.

## **5. Indemnity Liability and Limitation**

(a) The seller shall be liable in accordance with the statutory provisions insofar as the customer asserts claims for damages based on intent or gross negligence, including intent or gross negligence on the part of his representatives or vicarious agents. Insofar as the seller is not accused of intentional breach of contract, the liability for damages is limited to the foreseeable, typical occurring damage.

(b) The seller is liable according to the legal provisions, if he culpably violates an essential contractual obligation; In this case, too, the liability for damages is limited to the foreseeable, typically occurring damage.

An essential contractual obligation exists if the breach of duty relates to a duty which the customer has relied on and was entitled to rely on.

(c) Insofar as the customer is otherwise entitled to compensation for the damage instead of performance due to a negligent breach of duty, the liability of the seller is limited to compensation for foreseeable, typically occurring damage.

(d) Liability for culpable injury to life, body or health remains unaffected; this also applies to the mandatory liability under the Product Liability Act.

(e) Further liability for damages as provided above is excluded, regardless of the legal nature of the asserted claim. This applies in particular to claims for damages arising from negligence on conclusion of the contract, due to other breaches of duty or due to tort claims for compensation for property damage in accordance with §823 German Civil Code.

(f) The limitation according to paragraph (e) also applies insofar as the customer, instead of claiming compensation for damage, demands compensation for futile expenditures instead of performance.

(g) Insofar as the liability for damages against the seller is excluded or limited, this also applies with regard to the personal liability for damages of his employees, representatives and vicarious agents.

## **6. Statute of Limitations, Liability, Examination and Notification of Complaint**

(1) The limitation period for claims for defects including claims for damages is 12 months, calculated from the statutory limitation period. This does not apply to the claims described in §437 German Civil Code if the purchaser is a consumer. In this case, the limitation period is 2 years, however, the liability for defects towards consumers is limited to one year, calculated from the time of handing over the horse.

(2) If the purchaser is an entrepreneur within the definition of §310 (1) German Civil Code, the purchaser's claim for defects presupposes that he has duly fulfilled his duties of examination and notification of defects pursuant to §377 HGB.

## **7. Retention of Title**

(1) The ownership of the auctioned horses passes to the purchaser only after full payment of the purchase price plus commission and VAT. The transfer of ownership remains reserved until payment of all due claims from the business relationship have been made.

(2) Prior to transfer of ownership, pledging, assignment by way of security, processing or change is not permitted without the consent of the organiser or supplier.

## **8. Jurisdiction – Place of Delivery – Data Protection**

(1) If the customer is a merchant and the disputed business relationship is attributable to commerce, the organiser may sue the customer at the court responsible for the venue Osnabrueck / Oldenburg). The organiser himself can only be sued by these customers at the court responsible for the place of business (Osnabrueck / Oldenburg).

For the rights and obligations arising from and in connection with the contractual relationship, the non-uniform German law applies, namely the law the German Civil Code (HGB). The validity of the UN Sales Convention (CISG: United Nations Convention on contracts for the International Sale of Goods of 11/04/1980) is excluded.

(2) Data Protection

We collect and store the data necessary for the customer transactions. When processing the personal data of the customer, we observe the legal provisions. Further details can be found in the privacy policy available in our online offer.

The customer can receive information on request at any time about the data store about his person.

## **9. Final Provisions**

(1) These terms and conditions are available in German and English. In case of contradictions, the German version applies alone; in the case of interpretations, the German version must also be used and consulted primarily for the interpretation of the English version.

(2) The organiser reserves the right to change or supplement these internet auction terms in the future. Any changes or additions to these terms and conditions will be notified separately to the approved bidders by e-mail. The amended or supplemented conditions shall not apply until the bidder has resubmitted a bid after receiving the notice.

(3) The EU Commission has set up a platform for online dispute resolution (the so called “OS platform”). The OS platform is intended to serve the out-of-court dispute resolution in the context of disputes arising from online contracts. The OS platform can be reached at the following link <http://ec.europa.eu/consumer/odr>. According to §36 VSBG we inform that we are neither willing nor required to participate in a dispute settlement procedure before a consumer arbitration.

(4) Should individual provisions of these terms and conditions be or become ineffective or unenforceable, the validity of the remaining provisions shall remain unaffected. The ineffective or unenforceable provision shall be replaced by the statutory provisions. The same applies accordingly in the event that the contract turns out to be incomplete.