

Conditions of Sale

Top-Event-Horse-Auction · 13th November 2011 / Luhmühlen



All following points apply to the auction, which the prospective buyer agrees to in all terms. These terms and conditions are automatically part of the contract between Top-Eventers GmbH and the purchaser as soon as the horse is sold at auction. The Top-Eventers GmbH, Am Sieleitz 1, D-21401 Bavendorf, organizes the auction and sells the horses listed in the catalogue in its own name and on account of the vendor as a commission agent.

1.) The auction is held as a public auction in which anyone may participate, with an inaugurated auctioneer. On account of differences in their upbringing, veterinary management and training, the horses offered in the auction are no longer in their original condition and are, thus, classifiable as used goods. The regulations regarding the sale of commodities (§§ 474 ff. BGB) do not apply.

2.) The riding horses will be presented before and during the auction under the rider.

3.) The organizers of the auction retain the right to determine in which order the horses will be presented at the auction. Generally this will follow in line with the catalogue numbers. However, the organizers of the auction reserve the right to change this point. This would be notified in the form of a written declaration in the office of the auction at least two hours before the auction commences. The right to make this decision lies with the auction's organizers.

4.) The prices will be called in EURO.
The opening offers will be € 6,000.00.

Offers will only be accepted if their increase in comparison to the previous offer is at least € 300.00.

The knock-down price in the auction is considered a net price (9.). After the acceptance of the bid, the purchaser has to sign the purchase note (confirmation and contract) and the complete price including VAT must be paid immediately in the auction office. It must be paid either in cash or with a cheque endorsed by a bank. Foreign purchasers must pay the full purchase price in cash or with a bank/traveller's cheque by issuing an irrevocable, confirmed letter of credit in favour of the Top-Eventers GmbH with a German bank. Any additional costs and fees arising from the booking of the cheque must be paid by the purchaser. The bill is considered paid when the cheque has been booked. With the fall of the hammer, the purchaser enters a legally binding agreement with Top-Eventers GmbH.

After the acceptance of the bid, the Top-Eventers GmbH considers the horse to be the property of the vendor according to § 448 BGB up until the full purchase price has been paid. Top-Eventers GmbH is entitled to accept the payment and, in case of non-payment, to bring legal action against the purchaser for the full payment of the purchase price plus additional costs.

5. a) The following attributes of the horse list its characteristics (sale standard) in line with the law and do not include a fulfilment of a purchaser's claim: breeding lines, gender, age, colour and, if applicable, success at shows or otherwise. Added to this, there can be a photograph of the horse together with a short commentary in the catalogue with relation to its predominant ability in eventing. This commentary is not based on characteristic features for which the commissioner or vendor can be held liable for. The commentary is concerned with a first impression of the horse at the point of time when the catalogue is printed. The commissioner or vendor does not make a commitment or guarantee as to the ability of the horse. Further comments of quality do not guarantee a sales standard for which the commission agent or vendor can be held liable.

Up-to-date impairments concerning the health of the horses and changes to descriptions in the catalogue will be announced by the auctioneer.

b) The horses presented for sale are clinically examined by veterinarians shortly before the auction. The veterinarian in question will have been appointed to do this by the owner of the horse in question at his/her own discretion. A protocol of each horse's examination is available. In addition, twelve x-rays are taken of all horses (both front pasterns and hooves at 90°, oxspring, both hind pasterns and hooves 90°, both hocks at 45° and 115°, both knees at 110°). A joint protocol evaluating these x-rays will be prepared by a group of experts, acting upon its own responsibility, chosen by Top-Eventers GmbH.

The x-rays, evaluations and protocols of the clinical examinations (under the responsibility of the veterinarians of the group of experts) act as non-committal information for prospective buyers and do not determine the standard of health of the horses. The protocols of the examinations, the results of the x-rays and the evaluations are all available for viewing before the auction by potential purchasers, their authorized representatives and their veterinarians for attention, analyse and checking. The results of the veterinarians' examinations, their findings and evaluations are to be valued as their own responsibility. The results are not characteristic features or attributes and are not covered by the sales contract from Top-Eventers GmbH or the vendors. The veterinarians are not collaborators of Top-Eventers GmbH.

6 a) The liability of Top-Eventers GmbH is limited to the terms in 5., no claims of abatement or the like will be accepted.

b) Claims of compensation are limited to the refunding of transport costs, costs of stabling, the first veterinary inspection and the blacksmith. Top-Eventers GmbH is not liable for any costs caused by training, acquiring a replacement or possible value damages.

c) Top-Eventers GmbH and the vendors can only be held liable for the already mentioned points of attribute. Therefore, the horses are to be sold as seen.

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This sale will exclude any form of warranty or guarantee unless this is based on resolution or coarse negligence.

The liability for damage of persons is not affected by this unless a breach has taken place by the vendor. Top-Eventers GmbH will not take responsibility or warrant for the health of the horses. Furthermore, Top-Eventers GmbH will not warrant for the correctness of the results and evaluations given by the independent group of experts/veterinarians.

d) All claims due to shortcomings are to be addressed to Top-Eventers GmbH which acts as a commission agent for the vendor.

e) The claims (deviations from the standards agreed on in 5.) have to be filed in written form within 4 weeks of the auction's date.

f) Guarantee rights of the buyer lapse after the 3 month period from the date of sale. A shortening of the general warranty period does not apply when a claim of compensation is made due to faults and the faults can be traced to intent and gross negligence of the vendor, his/her representative or collaborator.

7.) In the case of any doubts regarding the validity of the knock-down, which have to be declared immediately, the bidding may be resumed. Doubts regarding the validity of the knock-down may still be declared after the purchase note has been signed, but before the final knock-down of the sale. Only bidders, the auctioneer or the auction management are entitled to declare such doubts. The matter is decided by a commission consisting of the secretary of Top-Eventers GmbH, the auction management and the auctioneer. The decision to revoke the knock-down must be unanimous.

8.) If the purchaser does not sign the purchase note or indicates during the auction that he will not take the horse, the horse may be auctioned again, depending on the decision of the commission named above. The first purchaser is liable to Top-Eventers GmbH and the vendor for any loss of profit.

9.) For the service in its position as a commission agent, Top-Eventers GmbH charges a commission fee. Furthermore, tax and an insurance premium are added to the final figure. The total amount has to be paid immediately after the bid for the horse has been accepted.

The payment due to Top-Eventers GmbH is calculated as follows:

Knock-down price
+ 6% commission fee
= Subtotal
+ V.A.T. according to § 12. II UstG (7%)
= Total purchase price

The sale takes place in accordance with § 449 BGB (ownership status). Therefore the vendor remains, up until the complete payment of the purchase price has been settled, the owner of the horse.

On the day of the auction the buyer has the opportunity of insuring his newly acquired eventer. A representative of the equine life in-

surance company GHV- Darmstadt will be at the auction and on request will supply information on insuring sport horses and eventers. The GHV – Darmstadt offer the following insurance valid for one year after the purchase of a horse at the auction at a cost of 6% of the knock-down price:

- 100% Indemnity by death or emergency killing as a result of illness or accident.
- 90% Indemnity by permanent uselessness as a result of accident. Veterinary costs of up to maximum 2,000 EURO for colic surgery.

The horse is also insured for transport within Europe. The sum insured is equal to the knock-down price or a maximum of 50,000 EURO. In addition liability insurance for sport and show horses will be offered by the GHV – Darmstadt and can be applied for on the day of the auction. The basic terms of contract contained in the AVB-Pferde/2008 - GHV Darmstadt apply.

10. With the knock-down, the liability is transferred to the purchaser, even though the horse remains in the care of Top-Eventers GmbH or the vendor. The horses are handed over with a halter, lead rope and rug and must be collected immediately after the auction (at the latest by 6 p.m. after the day of the sale). From this point of time, any costs are transferred to the purchaser. The purchaser is required to cover the cost of stabling at a rate of 25.00 € per day alongside any further costs caused by the horse. No horse may be removed from the premises until the payment has been finally settled. Horses sold at auction are on principle given to the purchaser only against cash or a cheque endorsed by a bank. If a horse has been sold on account and the vendor does not agree to hand over the horse to the purchaser, the vendor will take the horse back to his own stable at the end of the day, the risks and costs to be borne by the purchaser until the full price has been paid to Top-Eventers GmbH who will immediately inform the vendor that the payment has been made. The horse may only be removed from the premises after an exit voucher issued by the auction office has been handed in.

11.) The grooms or representatives of the vendor must look after the horses until they are handed over to the purchasers and will assist with loading, as mentioned in 10. This shall not, however, constitute a contractual relationship between the purchaser on one hand and the vendor or Top-Eventers GmbH on the other hand. The purchaser is liable for any damages that occur to the vendor or his/her representatives if caused by intention or gross negligence.

12.) Jurisdiction for all commitments deriving from contracts in connection with these auction conditions shall be D-21401 Thomasburg, OT Bavendorf.

13.) If any or several of the points listed above should become void, this will not affect any other points. Points that have become void are to be replaced by rulings that enable all parties to achieve their economic goals in a legally effective and practicable manner.

14.) These general terms and conditions are available in German and English. In the case of any doubt, the German version is the authorised version.