

ELITE MINIATURES, LLC TERMS & CONDITIONS

TERMS AND CONDITIONS LISTED BELOW APPLY TO BOTH SELLER AND BUYER

Please read these Terms and Conditions carefully, as they will govern your use of Elite Miniatures, LLC's (Elite Miniatures) website and auction services. Those who consign and bid are bound by these Terms and Conditions, Entry Form, Health and Fitness Guarantee as amended by any posted notices, which together form the contract of sale between the successful bidder ("Buyer"), Elite Miniatures, and the consignor ("Seller"). When consigning or bidding on any livestock offered by Elite Miniatures, the Buyer and Seller indicate acceptance of the following Terms and Conditions. Any participation in the auction binds you to agreement of these Terms and Conditions, whether you read or understand said Terms and Conditions. If you do not wish to be bound by these Terms and Conditions, you may not use the Elite Miniatures website or auction services. All livestock is sold subject to the following Terms and Conditions which shall control the mutual, reciprocal duties among Elite Miniatures, the Seller, and the Buyer.

1. PURPOSE

- a. The purpose of these Terms and Conditions is to
 - i. Establish sale procedures
 - ii. Facilitate informed bidding
 - iii. Provide for orderly settlement of finances in completion of purchases
 - iv. Allocate rights, responsibilities, and risks
 - v. Provide for orderly dispute resolution

2. AGREEMENT

- a. I represent and agree that I am of legal age to form a binding contract.
- b. I (hereinafter, referred to as Buyer) agree to these terms and conditions, and swear that all the information furnished is true and correct.
- c. Buyer agrees to be responsible for any purchase made or actions taken by an Agent authorized by me to act on my behalf. This includes anyone using or having access to the Buyers account.
- d. Buyer agrees that this registration to bid is not assignable without the express written approval of Elite Miniatures.
- e. Buyer & Seller agree to make any sale transaction for this entry through Elite Miniatures. (Refer to Section 17.c)
- f. Buyer agrees that if they have the winning, final bid, or accepted bid in auction subject to Seller Confirmation, the Buyer has entered into a binding agreement to purchase the livestock.

3. BUYER'S RESPONSIBILITY

- a. By placing a bid in this auction, Buyer is indicating they have examined or researched livestock to their satisfaction.
- b. Prior to bidding, Buyers may
 - i. Ask Seller for additional information
 - ii. Make an appointment with Seller to examine the animal at Seller's property
 - iii. Arrange with Seller to have a veterinarian perform pre-purchase examination
 - iv. Hire an agent or livestock professional to inspect and evaluate the animal.

4. REPRESENTATION OF LIVESTOCK

- a. Seller is responsible for the correct representation of this entry on the entry form, including the description, entry form, health guarantee, breeding information, as well as in communication with potential or eventual buyers.
- b. Some representations are the opinion of the Seller and given only as an indication of the animal's capability.
- c. Buyer should inspect, examine, and research the animal to their satisfaction.
- d. Seller is responsible for disclosing any known conditions listed on the Health and Fitness Guarantee.
- e. Seller is solely responsible for the accuracy of all information that appears in the online sale catalog and previews.
- f. Buyer and Seller agree to hold Elite Miniatures harmless from any claims arising out of any such inaccuracies or omissions.
- g. Seller has a continuing duty to respond to the Buyer after the sale, in the event of a dispute over Seller's representation of this entry.

5. BRED CATTLE

- a. For heifers/cows selling as bred, a veterinarian must check the animal for pregnancy within ten (10) days prior to listing for this sale and a statement of this examination must be provided to Elite Miniatures.
- b. If a heifer/cow is known to be carrying twins, it must be disclosed.
- c. Any purchaser of a heifers/cows sold in this sale may have the heifers/cows examined by an acceptable veterinarian within three (3) business days from the end of the auction and before the heifers/cows leaves the seller's premises.
- d. Any heifers/cows so examined whose pregnancy status is found not to be as represented in the sale catalog, may be returned to the Seller as unsold, and the Seller shall pay veterinarian's fee for examination.

- e. Any Seller offering heifers/cows as being bred with a live calf guarantee or return privileges must furnish Elite Miniatures, or Buyer, with written acknowledgement of this agreement signed by the Bull owner (or an authorized agent) that such privileges will be honored.
 - f. If the Bull owner withholds the breeder's certificate until the calf is born, the Seller must furnish a letter, signed by the bull owner (or an authorized agent), that such certificate is free of any additional costs and indicate how the mare owner will obtain the certificate.
6. NO IMPLIED WARRANTIES
- a. There is no warranty expressed or implied by the sales company, sponsors, or Seller, as to the performing soundness, merchantability, or fitness for any particular purpose of any animal offered in this sale, other than those made specifically by the Seller. Except as stated in Conditions 4 and 5, ALL ANIMALS ARE SOLD "AS IS" WITH ALL EXISTING CONDITIONS AND DEFECTS. RESPONSIBILITY FOR THE REPRESENTATION OF THE ANIMAL LIES BETWEEN THE SELLER AND THE BUYER.
7. BUYER'S RIGHT TO LIMITED POST-PURCHASE EXAMINATION
- a. Buyer has the right to have a veterinarian perform a limited post-purchase examination, at Buyer's expense, to determine if any of the issues in Condition 4 were not disclosed.
 - b. The examination must be done within three (3) business days from the end of the auction and before the animal leaves the Seller's facility. This examination will be limited to moving the animal for show of any type and checking the reproductive tract on breeding heifers/cows.
 - c. Positive reaction to flexion tests and hoof testers does not constitute unsoundness, if the animal is moving sound.
 - d. Radiographs, flexion tests and the use of hoof testers are not allowed in the limited post-purchase exam.
 - e. If the animal, or prospect for such, is found to be lame at the time of the examination, the sale of the animal can be rejected without further diagnosis.
 - f. Any purchaser of any animal sold in this sale may have the animal examined by an acceptable veterinarian as a part of this limited post-purchase exam as stated in Condition 5.
 - g. An animal sold with one or more of the issues described herein and in Condition 4, which was not disclosed at the time of sale can be rejected by the buyer, upon receipt of a statement from a qualified veterinarian, establishing the existence of the condition, within 3 business days of the date of sale and before the animal leaves the Seller's facility.

- h. If a sale is rejected, the animal will remain the property of the Seller.
8. DRUGS AND MEDICATION
- a. Seller agrees that this entry will not be given any drugs to alter soundness or temperament during this auction, including for presentation in videos, inspection by potential buyer, examination by veterinarian, or delivery to buyer.
 - b. If the entry must receive any medication as a result of an injury or illness, to protect the welfare of the entry or maintenance of any condition, this information must be provided to Elite Miniatures and be disclosed in the online catalog.
9. RELEASE OF ANIMAL TO BUYER
- a. Seller shall not release an animal to a Buyer until Buyer has made full payment for the animal and funds have been verified by Elite Miniatures.
 - b. Once bidding concludes, and Elite Miniatures has collected payment from the Buyer, Elite Miniatures will send to the Seller and Buyer, a confirmation email stating such.
 - c. When Buyer or transporter arrives, they will show Seller their copy of the confirmation email to confirm payment.
10. TRANSPORTATION FROM SELLER TO BUYER
- a. Buyer is responsible for cost and arrangements for transportation of animal from Seller to Buyer.
 - b. Buyer will contact Seller directly to schedule removal of the animal, once payment has cleared and notification has been sent from Elite Miniatures.
11. HEALTH CERTIFICATE
- a. Seller must provide a copy of a clean health certificate drawn within 30 days of the closing date of the sale.
 - b. Seller will be responsible for obtaining Interstate Health Certificate and any other Interstate requirements for transportation.
12. RISK AND RESPONSIBILITY FOR animal
- a. Buyer assumes all risk, responsibility, and expense for the animal at the end of bidding.
 - b. Seller agrees to provide basic board and care for up to five (5) days at no additional charge.
 - c. Beyond five (5) days, Buyer will be responsible to pay for board, at a reasonable cost determined by Seller, plus any other expenses that may be required to maintain the animal until Buyer takes possession or has the animal picked up from the Seller.
 - d. Elite Miniatures recommends the buyer obtain Full Mortality Insurance on animals immediately after purchase, however, this decision and risk rest solely on the Buyer.

13. RESERVE AUCTION
 - a. This is a Reserve Auction, unless otherwise announced for a specific animal.
 - b. The right of the Seller to bid on their own animal, through the auctioneer or otherwise, is not encouraged.
 - c. Elite Miniatures reserves the right to bid, whether it is on behalf of a Seller for any minimums or reserves, as well as for their own personal purchase.
 - d. Elite Miniatures will not share Reserve amounts with the public. It is at the discretion of the Seller to share Reserve information.
 - e. At any point during the live sale, Seller has the right to lower the Reserve but may not increase.
14. DEFINITION OF SELLING OPTIONS
 - a. Sell with NO RESERVE or Minimum Price
 - i. Will sell to the highest bidder
 - b. Elite Miniatures will continue to market the animal after the auction closes if the Reserve Price is not met. If a buyer comes from Elite Miniatures marketing efforts within the two weeks following the close of the auction, Elite Miniatures is due commission, and payments and processes should be handled by Elite Miniatures as outlined in the Terms & Conditions.
15. BIDDING & EXTENDED BIDDING
 - a. Bidding will open and close at a specific time and date, which is listed for each auction.
 - b. A SOFT CLOSE bidding system is used.
 - i. If bids are received within the last 5 minutes on the countdown timer on an animal, an additional 5 minutes will be added on that lot. Only after a 5-minute period passes with no additional bidding will the bidding close. A bidder may place individual bids. Alternatively, a Bidder may place maximum bids where they declare the maximum dollar amount they want to bid, and the computer will bid on their behalf until they have successfully purchased the animal or the asking price exceeds the amount of their maximum bid. Elite Miniatures reserves the right to bid, whether it is on behalf of a Seller for any minimums or reserves, as well as for their own personal purchase.
16. BIDDING ERRORS
 - a. You should make sure to review all bids before and after submitting.
 - b. If you mistakenly increase your own bid or make a gross error, you must immediately contact the Elite Miniatures office by email (we must have your request in writing) within 5 minutes.

- c. We may not be able to reverse your bid.
 - d. We will not reverse bids that have caused another bidder to be outbid.
 - e. If you bid on the wrong item, we will not reverse your bid.
 - f. Please make sure to immediately review your bid. We will not reverse bids after the auction has begun to close.
17. PAYMENT BY BUYER
- a. Once bidding is closed payment instructions will be emailed to Buyer and buyers credit card on file will be charged \$500.00 as a down payment.
 - b. Payment in full must be made within 48 hours after the sale is closed.
 - c. Pay Elite Miniatures, LLC in all cases.
 - d. Forms of payment
 - i. Credit Card (an additional 4% will be added to the final purchase price)
 - ii. Bank wire transfer
 - iii. Cashier's check or certified check (overnight)
 - iv. In no case may any part of the purchase price be paid directly to the Seller by the Buyer, as such payment shall not be valid or entitle the buyer to obtain the animal unless Seller pays Elite Miniatures the commission due. Prior written approval must be obtained by Elite Miniatures.
 - v. A charge of \$100.00 will be made for insufficient funds or on any payment that is returned due to sender error.
 - vi. Buyer agrees not to stop payment for any reason.
18. DEFAULT ON PURCHASE
- a. If any person shall purchase an animal and not pay for it as prescribed above, Elite Miniatures or consignor shall have the right to resell the animal or at their option, bring legal action.
 - i. In the event Buyer defaults on purchase, Buyer agrees to pay Elite Miniatures for any lost administrative fees (commission, advertising, etc.)
 - ii. If legal action is pursued, the buyer agrees to pay all cost of such suit together with reasonable attorney fees as fixed by the court.
 - iii. In the event of resale, the defaulting buyer agrees to pay all costs of resale and price deficiency, if any.
 - 1. Interest of 1-1/2% per month will be charged on the unpaid balance of any account not paid for as set forth in these conditions.

19. Elite Miniatures DOES NOT GUARANTEE PAYMENT BY THE ONLINE BIDDER

- a. Due to the nature of the electronic transaction Elite Miniatures cannot guarantee the validity or performance of an Internet bidder.
- b. Seller understands that Elite Miniatures does not guarantee the validity, enforceability, payment, or collection of any instrument received in payment of the purchase price of any entry.

20. PAYMENT TO SELLER

- a. Elite Miniatures agrees to send payment to Seller within 15 banking days from the date of auction end or once full payment has been verified and funds have cleared bank, whichever is later.
- b. Seller has option to receive payment via mailed check with tracking number or Direct Pay via Elite Miniatures's bank.
- c. Payment is normally sent on the 10th banking day after the auction. Payment will be made to Seller, as stated above, providing all registration and health papers are in order, or the Buyer has not failed to pay for the entry for any reason, or the sale of the animal is not in dispute.
- d. Seller agrees that if the sale of any entry is not consummated by reason of default of the buyer or otherwise, Elite Miniatures shall not be liable for the payment or collection of the purchase price or for the return of the entry. In the event a Buyer fails to pay for and receive an entry for which they placed the final bid, Elite Miniatures shall not be held liable for said sale, but shall have the right to accept the same amount from another person, accept the next highest bid or put the entry up for sale again.

21. REGISTRATION PAPERS

- a. Will be held by the Seller until all payments clear the bank (up to 21 days) at which time they will be sent with animal at pick-up or mailed, with completed transfer reports, to the buyer directly by certified mail with tracking. Tracking number is to be sent to Buyer.
- b. Papers will be released when an animal has been transported and/or all fees have been paid to the Seller.
- c. If any Buyer desires to obtain papers immediately, the animal or animals must be paid for with cashier's or Official Bank check, or bank wire.

22. NO GUARANTEE OF SERVICE

- a. Elite Miniatures does not guarantee or covenant that the Auction technology, the website, or any related services will meet the Buyer's requirements or be uninterrupted or error-free.
- b. Elite Miniatures does not guarantee real-time performance of any service or that it will execute all online or absentee bids.

23. WITHHOLDING FUNDS

- a. Buyer and Seller agree that Elite Miniatures shall not be required to remit to Seller or Buyer, the net proceeds of the sale of any entry which is the subject of a dispute or claim by the buyer, for misrepresentation, fraud or breach of warranty, until such dispute or claim is resolved and the proceeds of the sale have been received by Elite Miniatures.
- b. The responsibility to resolve such a claim lies between the Seller and the Buyer.
- c. Notwithstanding any other provision hereof, should a dispute arise between the Seller and the Buyer, Elite Miniatures may retain its fees and costs and may hold in escrow the balance of any proceeds of sale in its possession, as well as any titles or registration certificates, pending a resolution of the dispute.
- d. Any and all legal fees and costs incurred by Elite Miniatures may be deducted by Elite Miniatures from the net proceeds of sale still in their possession.
- e. Otherwise, the Seller and Buyer shall be jointly and severally liable for the same upon demand.

24. DISPUTED CONDITION & BINDING ARBITRATION

- a. In the event of a dispute between the parties, a claim to enforce this Agreement of the allegation of a default, which is not resolved by agreement, the parties waive the right to litigate the issue and agree the matter shall be submitted to binding arbitration, using a single arbitrator to be selected by the parties.
- b. If the parties cannot agree on the selection of the arbitrator, they shall allow the arbitrator to be designated by Elite Miniatures.
- c. The arbitration shall take place in Rexburg, Idaho, unless mutually agreed otherwise.
- d. In any procedures arising out of, regarding or related to this Agreement, the defaulting party shall pay to Elite Miniatures, any cost, expense and attorney's fee incurred by Elite Miniatures in such proceeding, in addition to any amounts awarded in such proceedings in event the Elite Miniatures substantially prevails.
- e. Buyer or Seller may bring no action, regardless of form, including arbitration, more than one year after the cause of action has accrued.
- f. Should either party fail or refuse to cooperate upon a demand for arbitration, the arbitrator shall automatically declare the non-cooperative party to be the defaulting party.

25. INDEMNITY

- a. Buyer and Seller release Elite Miniatures and its representatives, from any and all responsibilities, liabilities, obligations, claims, lawsuits, or legal proceedings arising from the sale of this entry.
- b. If legal action is initiated against Elite Miniatures involving this entry, the Seller and Buyer agree to fully indemnify Elite Miniatures from such suit, including legal fees and costs incurred by Elite Miniatures.
- c. Seller and Buyer agree that Elite Miniatures may publish sale results including information concerning this sale transaction.

26. LIMITS OF LIABILITY

- a. Elite Miniatures shall not be liable for lost profits or any incidental, special or consequential damages whatsoever arising out of or in connection with any sale or transaction.
- b. In NO event will the total liability of Elite Miniatures from all damages, losses, and causes of action resulting from the Seller's or Buyer's use of the Elite Miniatures website or service exceed the largest amount of funds held for their benefit.

27. INTERFERENCE

- a. Buyer and Seller agree not to use any device, software or routine to interfere with or attempt to interfere with the functioning of this online auction.

28. PRIVACY POLICY

- a. By registering as a bidder or consigning an animal in this auction, Buyer and Seller agree to the use of the Buyer's or Seller's information by Elite Miniatures. Buyer's or Seller's information will be used by Elite Miniatures to contact Buyer or Seller and for record keeping. In the future, we may use email lists to contact Buyers or Sellers. We may do custom email promotions for customers, advertisers, or organizations through our Constant Contact account. If Buyer or Seller wishes to discontinue receiving these emails, contact our office or unsubscribe through Constant Contact.

29. SEVERABILITY

- a. If any provision or portion of a provision of this agreement is held to be invalid or unenforceable for any reason, such provision or portion of a provision shall be struck and the remaining provisions shall be enforced.