



# EQUINE TRANSACTION PACKET



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US Equestrian appreciates the assistance of the members of the Equine Transaction Task Force including Elisabeth Goth - Chair, Debbie Bass, Lisa Blackstone, Josh Greer, Armand Leone, Janine Malone, Marty Schaffel, Judy Sloan, and Judy Werner, as well as the many members who provided us with information and personal experiences.

This Equine Transaction Packet is intended to provide USEF members with general background information when entering into an equine sale or lease transaction. This Packet is provided for informational purposes only and not for the purpose of providing legal advice. All USEF members are encouraged to seek the guidance of a licensed attorney to assist in an equine sale or lease transaction.

## INTRODUCTION

Buying or leasing a horse can be an exciting time in any equestrian's career. This is a major decision that should not be taken lightly regardless of whether this is your first horse or you own a successful farm with hundreds of horses. Navigating the process of buying or leasing a horse may seem confusing and overwhelming to even the most experienced of equestrians. This informational packet is designed to provide those involved in this process with some helpful discussion points and frequent obstacles to be aware of when buying or leasing a horse.

## US EQUESTRIAN POSITION STATEMENT ON EQUINE TRANSACTIONS

US Equestrian is committed to providing our members with a fair, safe, and enjoyable sport. We expect all our members to conduct business in an ethical, fair, honest, and responsible manner. US Equestrian recognizes a distinct need for greater educational resources to provide a better understanding of the relationships between purchaser, seller, agents, and trainers. Commissions are a reasonable component of equine transactions, providing they are fair, in your personal opinion, and fully disclosed to the relevant parties in advance of the transaction. Maintaining integrity in all business transactions is critical to the sustainability and growth of equestrian sport.

## ARE YOU THINKING OF BUYING OR LEASING A HORSE?

### Costs

Before deciding whether you are ready to purchase or lease a horse, it is important to be aware of all costs associated with both the actual purchase or lease and long-term ownership of a horse. You should first have a conversation with your trainer regarding all the fees associated with keeping a horse at their facility. Some of the costs to consider include:

- All up-front costs – the purchase or lease price of the horse; all trainer commissions for both the buyer and seller, as well as any agents involved in the sale; shipping fees of getting the horse to the farm or to the U.S. from overseas; quarantine fees, if applicable; vetting costs for a pre-purchase exam.
- Ongoing costs – board; training; lessons; track and equipment; routine veterinary care; routine farrier care; wormer; regular vaccinations; Coggins and health certifications; show fee; travel, etc.
- Additional costs – insurance; chiropractic care; acupuncture care; therapeutic care; attending horse shows; emergency veterinary care.
- While no trainer will be able to provide you an exact breakdown of costs for your new horse especially in an emergency veterinary situation, understanding the full financial commitment of owning versus leasing a horse will assist you in making the right decision in determining which approach will be the right fit for you.
- Insurance - for more information see page 5.

## YOUR TEAM

So you've decided you can afford a horse, now you need to build your team of experts to assist you in finding the right horse and purchasing or leasing it. As you begin the process of buying or leasing a horse, it is important to surround yourself with trustworthy individuals who will assist you

from start to finish. These will ideally be individuals who are experienced in the buying and selling of horses. Some important team members would include a trainer, a vet, and possible, an agent. Each of these individuals will serve a distinct role at different stages of the transactional process.

1. Your trainer will act in a role similar to your realtor when purchasing a house. Your trainer will have a unique understanding of your needs and goals in your long-term partnership with a new horse. They will have connections in the industry, which will assist them in finding horses that meet those needs. Your trainer may then negotiate the contract and price, facilitate the pre-purchase exam, as well as the transportation of the horse to its new home.
2. A trusted equine veterinarian will be important once you have found a horse that you are interested in potentially purchasing or leasing. It is essential to employ an experienced and trusted equine vet to assess the horse's current and future soundness through a pre-purchase exam. Ideally, the veterinarian should not be the horse's current veterinarian. A pre-purchase exam may include a review of the horse's past veterinary records and x-rays, a physical exam, the taking of additional x-rays, and a drug test. The vet may perform flexion tests on the horse's legs to highlight areas of soreness. It is not uncommon for a vet to also examine the horse's movements while under saddle.
3. An agent is someone who an individual hired with the specific purpose of matching your needs as a buyer with a horse that fits those needs. Your trainer may serve in the role of your agent, depending on that relationship and the power you entrust in them. Agents generally have a working relationship with a vast network of professionals in the industry from which to pull the right horse. Therefore, the right agent may be beneficial to your search as they will both cut down on the time spent looking, as well as knowing of horses you may not have found without their assistance. However, agents add an additional element to the transaction of which buyers and lessee must be aware.

As a third party to the transaction, agents should be neutral to both the buyer/lessee and the seller/lessor. Sometimes an agent will be representing the buyer and the seller and it is critical that this dual agency is disclosed to the buyer/lessee and seller/lessor. In these situations it is important to discuss the commission with the parties to the transaction and who is responsible for paying it.

In order to alleviate any potential pitfalls when working with an agent, be sure to ask questions up-front regarding commission rates, representation of the seller, and your needs as a rider. In representing a client, agents owe the client certain fiduciary duties, the breaching of which can lead to criminal charges.

## **IMPORTANT CONSIDERATIONS**

- It is not unusual to try several horses before finding the right fit. With the end goal of finding a long-term partner, it may take several attempts before you find a horse that suits your needs and preferences. It is important to stay patient and avoid rushing to a decision as you may end up with a horse that is not the right fit.

- You may find a horse you like and the pre-purchase exam may return something unusual. At this point, it is important to consult with the members of your team, including both your trainer and vet. Together you will be able to determine whether it is best to move forward with the purchase or lease, knowing the potential for future therapeutic treatment, or to forgo buying or leasing this particular horse.
- The commission structure may be complicated as there are can be multiple individuals involved in the transaction. It is important to have all discussions regarding compensation prior to beginning the search. You need to be aware of all costs up-front. Ideally, you will have a contract with each member of your team prior to entering into any purchases or leases. As with any other transaction involving large quantities of money, the legal documentation obtained in any equine lease or sale transaction is imperative to protecting your best interest and your investment, and in some states a legal requirement (see page 6).
- It is important to remember that regardless of the time spent researching and vetting a horse, these are animals and there always exists the risk that a horse may not be a long-term good fit for you and your trainer. After bringing the horse home, it may be injured in the field or while in training. Additionally, through no fault of your own or that of your trainer, it may become apparent with time that the horse is not a good fit to you or your training routine.
- Trials are an opportunity to get to know the horse both at home and at a competition. A trial may give you a chance to familiarize yourself with the horse's personality over time. Negotiating a trial is similar to negotiating the purchase or lease. Every trial is different. As a seller, trials are risky, as the horse may be injured while on trial without the benefit of having obtained the purchase price up front. Therefore, it is not unusual for an owner to require that you pay to insure the horse while on trial, restrict the use of the horse or those permitted to ride the horse, or require that the horse stay at the owner's farm, permitting you to ride it on location.

## **YOU'VE FOUND A GOOD MATCH, NOW WHAT?**

Once you've found a horse that meets your needs, there may be some additional areas to consider before signing a bill of sale or lease agreement. Below are several areas worth discussing with the owner of the horse and other individuals involved in the sale or lease transaction:

- **Pre-purchase Exam** – How much veterinary information are you interested in obtaining on any potential horse. As discussed above, there are a wide range of tests that may be conducted in any pre-purchase exam. It is up to you and your trainer to determine how much information you would like to gather before purchasing or leasing a horse. The more information you need may lead to a more expensive pre-purchase exam; however, the information you obtain up front is invaluable and may lead to cost savings in the long run.
- **Show record** – The owners of the horse will be able to provide you with a general summary of the show record of the horse.

You should contact the Federation or breed registry to obtain a thorough and detailed show record of any horse you are considering purchasing. If you are purchasing or leasing a horse from abroad, you may want to review the competitions records of the home federation of the horse especially if it may affect eligibility to compete in restricted sections.

- **Prior injuries** – It is important to ask the current owner for a full history of the horse's veterinary record, including any prior injuries and available x-rays. Your veterinarian can review these records as a part of the pre-purchase exam conducted.
- **Competition preparation routine** – Each horse is different when it comes to the preparation necessary to compete it successfully. It will be useful for you and your trainer to have an understanding of the customary routine the horse undergoes when competing.
- **Normal training routine** – Depending on the future use of the horse, it will be beneficial for you and your trainer to gather information on what training the horse is currently enrolled in and how it is being exercised. A horse's training routine should be similar to that which you are planning on utilizing.

## **INSURANCE**

There are several categories of insurance available to horse owners and lessees. When shopping for the right insurance, remember that every company offers different options, including deductible amounts, stallion insurance, multiple horse packages, loss of use options, and rebate plans. It is important to fully understand the specifics of the policy you purchase. The following are the most common types of insurance and a brief explanation of each:

- **Major medical** – this insurance covers medical and surgical procedures required to treat illness, injury, or disease. However, this insurance option does not cover preventative health expenses such as joint injections, vaccinations, de-worming, or dental work.
- **Surgical** – this insurance option covers surgical and after-care fees and charges.
- **Mortality** – equine mortality insurance covers death caused by accident, injury, or illness. Additionally, some mortality insurances may cover theft of your horse.
- **Colic** – while colic treatment may be included in other categories of insurance coverage, you may be able to obtain colic specific coverage from either an insurance provider or supplement company, when using their supplements regularly.
- **Loss of use** – also known as permanent disability, loss of use insurance will reimburse you a percentage of your horse's value when it is permanently no longer able to perform its specified use.
- **Personal liability** – coverage for accidental bodily injury or property damage to a third party as a result of your use of your horse either on or off the farm.

## COMMISSIONS

One of the least understood aspects of equine sale and leasing transactions is commission structure. Each breed and discipline has its own traditional commission rate. Therefore, the commission rates may vary among equestrian groups. However, having an open discussion with your trainer and agent about expected commissions is important. Commissions should be fair and reasonable in your opinion, and disclosed in advance of the transaction.

## EQUINE TRANSACTIONAL LAW

UCC: The Uniform Commercial Code (“UCC”) was first published with the aim of creating uniform sales and commercial transactional law across all states. The laws apply to sales by those individuals with the knowledge and skills in the goods, or in this case, the horses they are selling. It is important to note that the UCC may govern your sale or lease.

State Laws: Every state has common law fraud statutes which exist to address deceptive and unfair practices. CPAs seek to protect a buyer from the perceived imbalance of knowledge and experience held by sellers in the equine industry. CPAs overrule a defense that the challenged action is accepted practice or customary in the industry.

Additionally, Florida, California, and Kentucky each have specific transactional laws governing purchases over \$10,000.00. It is important to research the laws of your state to ensure your compliance with all requirements as well as your protection under these laws.

## MAJOR PITFALLS TO AVOID

Throughout this document, you have been provided guidance as you navigate the equine lease or purchase process. Below are five areas to which this guidance should be applied in order to avoid ending up with a horse that is not a good fit or one that has been misrepresented:

- **Measurement**: If you intend to purchase a pony, it is important to obtain the official measurement card for the pony as classes may be restricted both to ponies and also specific sized ponies. It is important to familiarize yourself with the measurement rules, including the difference between standard and temporary cards.
- **Vetting**: Every horse should be vetted and age verified prior to purchasing or leasing. More information regarding this process can be found in the above sections.
- **Drug Test**: As part of the pre-purchase veterinary exam, a full drug test may be requested to ensure the horse is not currently on any undisclosed drugs or medications.
- **Competition Records**: A thorough record of the horse's competition records should be available from the current owner or the appropriate record keeping organization.
- **Bill of Sale**: Prior to finalizing any purchase or lease, it is indispensable to ensure you have a fully executed bill of sale enumerating the details of the sale or lease. For more information about what should be included in a Bill of Sale, please consult with your trainer, agent, or lawyer.

- **Legal Ownership:** Prior to fully executing the Bill of Sale, you will need to confirm that the seller of the horse is in fact the legal owner of the horse and there are no liens placed on the horse.
- **Registration:** If the horse belongs to a breed group that requires registration with the organization, you will want to ensure that the registration has been completed prior to your purchase or lease.
- **Trial:** Bringing your potential new partner home for any amount of time can be extremely helpful in ensuring it will be a good fit long term. For more information on trials, please see the above sections.

## **CONCLUSION**

While the decision to purchase or lease a horse is undoubtedly an exciting time in any equestrian's career, it is important to ensure that the transactional process is an enjoyable one. To protect yourself and your investment, it is wise to arm yourself with information in order to make an educated decision. And, ideally, at the end of the process, you will have a lifelong partner in your new horse.

## **ADDITIONAL RESOURCES**

For additional support through the lease or sales process, you may want to hire an Equine Sales Support company. This company will facilitate the lease or sale process and work as an additional advocate ensuring legally and ethically compliant transactions.

There are several categories of agreements that may help in making your equine transaction experience more transparent for all parties involved. These documents should be discussed openly and early in the process of purchasing or leasing a horse. These documents may include:

- Agent Disclosure Agreement
- Pre-Purchase/pre-lease Trial Agreement
- Purchase/Sale Agreement
- Purchase/Lease Agreement
- Bill of Sale

While this packet is not designed to be a complete resource covering every aspect of an equine sale or lease transaction, it is intended to provide you with a general overview of the process. In the event your sale or lease goes awry, and after a decision has been rendered by an adjudicative body, you may be entitled to seek reciprocity under General Rule 615.

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