

## Conditions of Sale (for the 2021 Arqana Breeze-Up Sale at Goffs UK)

These Conditions have been specifically modified for the Breeze-Up Sales held at Goffs UK 28<sup>th</sup> May 2021, and the associated pre-sale Breeze-Up work on Doncaster Racecourse. In several cases they vary from the standard Goffs UK Conditions of Sale and take precedence over any Conditions of Sale previously issued by Goffs UK and/or Arqana. For the avoidance of doubt, these Conditions apply to any Lot catalogued in the Arqana Breeze-Up Sale (originally scheduled for 13<sup>th</sup> & 14<sup>th</sup> May 2021), and offered at Goffs UK Doncaster Sales Complex.

### 1 DEFINITIONS

- 1.1 **Affiliate**" means any person that Controls Goffs UK, is controlled by Goffs UK or is under common Control with Goffs UK.
- 1.2 **Associated Company** means Robert J. Goff & Co Plc, a subsidiary of Robert J Goff & Co Plc or a holding company of Robert J Goff & Co Plc or any other subsidiary of that holding company or an Affiliate, but specifically, without limitation of the foregoing, Goffs Country Property Consultants Limited, Goffs UK Limited and Goffs Bloodstock Sales Limited. For the 2021 Arqana Breeze Up Sale it also includes Arqana.
- 1.3 **Catalogue** means the Arqana Breeze-Up catalogue. The word Catalogue also includes any supplement to it issued by Goffs UK and/or Arqana from time to time including this booklet containing these terms and conditions.
- 1.4 **Control** means, in relation to any person, the beneficial ownership of any of the issued share capital of, or the legal power to direct or cause the direction of the general management of the person in question or its holding company or parent company
- 1.5 **Debtor** means any Vendor, Purchaser or New Purchaser (as appropriate) with any liability to Goffs.
- 1.6 **Goffs UK** means Goffs UK Limited
- 1.7 **Goffs UK Hawick Office** means the Auction Mart Offices in Hawick, Roxburghshire
- 1.8 **Goffs UK Premises** means Goffs UK Doncaster Sales Complex, Doncaster Racecourse and Doncaster Racecourse Stables.
- 1.9 **Lot** means the horse which is to be sold and which has a Lot number in the Catalogue
- 1.10 **New Purchaser** means the person to whom the Lot has been transferred after the Sale in accordance with 7.2 below
- 1.11 **Owner** means the person, partnership, syndicate or corporation named on the Entry Form as the owner of the Lot.

- 1.12 **Purchaser** means the highest bidder to whom a Lot is knocked down by Goffs UK or who purchases the Lot privately following the sale.
- 1.13 **Purchase Price** (as regards the Purchaser) is the price in pounds at which the Lot was knocked down by Goffs UK in the ring or the price at which it is sold privately plus V.A.T. and commission.
- 1.14 **Sale** means the sale by auction conducted by Goffs UK.
- 1.15 **Sale Price** (as regards the Vendor) means the price in Pounds sterling at which the Lot was knocked down by Goffs UK or the price at which it is sold privately, subject to deductions for commission, entry fee and any other charges which may apply.
- 1.16 **Sales Office** means the Goffs UK office in the Sales Complex at Doncaster.
- 1.17 **The Panel** means one or more Veterinary Surgeons appointed by Goffs UK.
- 1.18 **Vendor** means the person, partnership or corporation named on the Entry Form as the Owner of the Lot, or, if no Owner is named on the Entry Form, the person who entered the Lot for sale. If the Vendor is not the Owner of the Lot or the legal owner(s) of the Lot, the Vendor shall be deemed at all times and for all purposes to be the servant or agent of the Owner and/or the legal owner(s).
- 1.19 In these Conditions:
- 1.19.1 The singular includes the plural and vice versa;
- 1.19.2 References to persons include bodies corporate, unincorporated associations, governments, states, partnerships and trusts (in each case, whether or not having separate legal personality); and
- 1.19.3 “subsidiary” and “holding company” have the meanings given to them by sections 1159 of the Companies Act 2006.

## **2 THE SALE**

### **2.1 COMMISSION AND FEES**

- 2.1.1 An entry fee is payable to Goffs UK by the Vendor for each Lot entered and catalogued. The fee is non-refundable upon publication of the Catalogue .
- 2.1.2 The Vendor will pay commission to Goffs UK equal to 1.5% of the Sale Price (subject to a minimum of €100).
- 2.1.3 Goffs UK will deduct 5% from the sales proceeds of Vendors to be paid as commission to the Purchaser, where the Purchaser is a licenced Trainer or recognised Bloodstock Agent, and subject to the Purchaser paying the Purchase Price for the Lot in question by 5.00pm on the 30<sup>th</sup> day following the Sale.
- 2.1.4 The Purchaser will pay commission to Goffs UK equal to 6% of the Purchase Price.

- 2.1.5 Goffs UK reserve the right to charge full commission of 7.5% from the Vendor in respect of any cancelled sale.
- 2.1.6 Goffs UK reserve the right to charge full commission of 7.5% from the Vendor in respect of any Lot sold between the date of publication of the Catalogue and seven calendar days following the last day of the sale
- 2.1.7 When a Lot is bought in 100% by the Vendor 7.5% of the price of that Lot is payable by the Vendor unless Goffs UK are notified by the conclusion of the sales session in which the Lot was offered and the Lot is published as a "Vendor" sale, in which case 2.5% of the Price is payable by the Vendor to Goffs UK (subject to a minimum commission of £100).
- 2.1.8 When a Lot is unsold the Vendor will pay to Goffs UK 2.5% of the reserve price if the reserve price exceeds £15,000.
- 2.1.9 A withdrawal fee of £750 is payable by the Vendor to Goffs UK for any Lot which is catalogued and withdrawn prior to the Sale unless notification of withdrawal is accompanied by a veterinary certificate to the satisfaction of Goffs UK.
- 2.1.10 All fees and commissions are subject to VAT at the appropriate rate.

## **2.2 BIDDING**

- 2.2.1 The auction shall be conducted in pounds sterling (£). Subject to the discretion of the auctioneer, no bid shall advance less than £200 up to £10,000; £500 up to £20,000; £1,000 up to £50,000; £2,000 up to £100,000; £5,000 up to £500,000; £10,000 up to 1,000,000; £50,000 thereafter.
- 2.2.2 Online bidders will be offered bid amounts that reflect those most regularly used in a live sale, which will generally, but not exclusively, be subject to the same minimum advances outlined in 2.2.1 above
- 2.2.3 Should any dispute arise between two or more bidders, or between Goffs UK and any bidder, Goffs UK decision shall be binding on all parties. At Goffs UK's discretion the Lot in dispute may be put up again for auction and resold, subject to the reserve price in accordance with 3.1 below

## **3. VENDORS**

- 3.1 Vendors of Lots are subject to entry fees and commission as outlined in Condition 2.1. All Lots are subject to a reserve price which shall either be the minimum selling price set by Goffs UK or any higher reserve price which Goffs UK must have received in writing from the Owner, the Vendor or his agent prior to the Lot being offered for sale. Where no instruction is received in writing from the Owner, the Vendor or his agent, the Lot will be offered without reserve.
- 3.2 Each Vendor undertakes that a Lot entered in the Catalogue shall not be sold before the Sale.

- 3.3 Goffs UK and Arqana will endeavour to have all Catalogue information correctly stated, but the Vendor is responsible for the accuracy of its content and the correction of any error or omission. Goffs UK and Arqana shall not be liable for any statements made in the Catalogue or from the rostrum concerning a Lot.
- 3.4 The Vendor undertakes:
- (a) To lodge in the Sales Office for each Lot, the Passport, vaccinations, health certificates in accordance with Appendix 1 of these Conditions and any veterinary certificate referred to in Condition 4.1, whichever apply, prior to the Sale. Goffs UK will not offer any Lot for sale unless the Passport and any other relevant documentation have been lodged prior to the Sale in the Sales Office.
  - (b) To ensure that all Lots are correctly micro-chipped. The Vendor undertakes to bear the cost of micro-chipping if any Lot is found not to be correctly microchipped by the conclusion of the Sale.
  - (c) All Lots must have up to date vaccinations in accordance with the Vendors' Sales Requirements (Appendix 1 of these Conditions).
- 3.5 All import/export paperwork must be in order prior to the Sale or the Lot may be withdrawn at Goffs UK's discretion. It will be the sole responsibility of the Vendor to ensure that any Lot's paperwork is in order and the Vendor will bear the cost of any outstanding paperwork whilst Goffs UK will not pay the sales proceeds to the Vendor until the appropriate documentation has been delivered to the Purchaser.
- 3.6 The Vendor will pay any administration fees incurred by Goffs UK relating to import paperwork required to facilitate the HMRC Docket Scheme.
- 3.7 A Vendor or any one person on his behalf may bid for any Lot owned by such Vendor. Where however a Lot is stated to be "the Property of a Partnership" or "to Dissolve a Partnership" any partner, syndicate member, co-Owner or other person interested may bid on his own behalf either personally or through an agent.
- 3.8 In the case where any Lot has been knocked down to a bidder who has made no payment arrangements prior to bidding Goffs UK may impose one of the following measures in their absolute discretion:
- (a) The sale will be deemed to be cancelled and the Lot will immediately be reoffered on behalf of the Vendor
  - (b) Goffs UK will not make payment to the Vendor until the Lot has been paid for in full
- 3.9 Upon receipt of a single written application from the Vendor, Goffs UK will pay to the Vendor the Sale Price of each Lot sold not earlier than 35 days after the last day of Sale or on such date as specified in the Entry Form or as agreed, subject 3.6 and 3.8 above, 3.10, 3.11, 3.12, 3.13 below. Goffs UK are not under any obligation to place the sale proceeds on deposit prior to the Vendor's Application for Payment. Unless otherwise instructed by the Vendor, Goffs UK will issue payment to the Vendor by way of cheque posted by ordinary post to the address provided by the Vendor on the Application for Payment. Payment to the Vendor in this manner will be deemed to have been made at the time of posting of the cheque by Goffs UK and all payments are sent at the risk of the Vendor and Goffs UK will incur no liability to any party as a result of the non-delivery of the cheque to the Vendor.

- 3.10 In the case of any Lot where a dispute has arisen between the Vendor, the Owner, the Purchaser and/or any third party making any claim in relation to the Lot, or where there are competing claims for payment, Goffs UK may refuse to make payment to the Vendor pending resolution of the dispute. In exercising this right, Goffs UK will incur no liability to any party, and no interest shall be payable by Goffs UK on any sale proceeds retained.
- 3.11 When the Owner of a Lot is a partnership or a syndicate and one or more member(s) of that partnership or syndicate is the Purchaser, Goffs UK reserve the right to withhold payment on that Lot until the Purchase Price has been received in full from the Purchaser.
- 3.12 The Vendor shall indemnify Goffs UK in respect of any loss, or liability suffered or costs disbursements or expenses incurred bona fide by Goffs UK by reason of bringing or defending any proceedings which arise directly or indirectly from any breach of these Conditions of Sale by the Vendor or in relation to the sale of the Lot.

#### **4. BASIS OF SALE**

- 4.1 There is no term implied in any sale that any Lot is of merchantable quality or is fit for training or any particular purpose. Any term, condition or warranty that might be incorporated into or apply to these Conditions of Sale are excluded to the maximum extent permissible by applicable law. It is the responsibility of the Purchaser to ensure that he is satisfied with the condition of any Lot before bidding. Additionally a Purchaser must make his own enquiries and exercise his own judgement as to the value of a Lot

**All Lots are sold Subject to Re-examination of Wind only** (subject always to paragraph 4.2 below).

#### **4.2. RE- EXAMINATION PROCEDURE**

- 4.2.1 Any Lot which is or has any of the following
- (a) A Whistler and/or a Roarer (being a horse which makes an abnormal inspiratory sound when actively lunged) and in addition has Laryngeal Hemiplegia (Recurrent Laryngeal Neuropathy); or
  - (b) Rostral displacement of the palatopharyngeal arch; or
  - (c) Epiglottic entrapment; or
  - (d) Chondroma or significant arytenoid chondritis; or
  - (e) Subepiglottic cyst(s); or
  - (f) Cleft palate
- and is not so described, is returnable, in accordance with Condition 4.2.2
- 4.2.2 Any Lot found to be suffering from any conditions described in Conditions 4.2.1 is returnable and the sale cancelled provided that:
- (i) It has not been removed from Goffs UK Premises; and
  - (ii) Within 24 hours from the fall of hammer:
    - (a) The Purchaser's Veterinary Surgeon must lodge a certificate with Goffs UK, expressing his opinion that the Lot is or has any of the conditions set out in Condition 4.2.1; and
    - (b) The Purchaser must present the Lot to The Panel as instructed by Goffs UK.

(iii) Whether a Lot is or has any of the conditions set out in Condition 4.2.1 will be decided by The Panel whose decision shall be final and binding on the Vendor and Purchaser.

4.2.3 Additionally the Sale may be cancelled at the discretion of the Purchaser if the Lot, in the opinion of The Panel, is incapable of (i) being lunged in both directions to The Panel's satisfaction or (ii) being scoped to The Panel's satisfaction,

4.2.4 The Purchaser expressly acknowledges that there are other conditions other than those set out in Conditions 4.2.1 which may be revealed by endoscope which are not grounds for return to the Vendor.

4.2.5 The appropriate re-examination fee arising from any re-examination by The Panel shall be paid to Goffs UK by the Purchaser.

4.2.6 Goffs UK in no way accept responsibility for the findings of The Panel carrying out the re-examination.

## **5. BLOOD SAMPLING**

### **5.1 Anabolic Steroids & Bisphosphonates**

5.1.1 This Condition stands alone and is separate and distinct from Condition 4 and applies to all Lots.

5.1.2 A Lot shall be returnable by the Purchaser to the Vendor where, in accordance with this Condition, a sample of blood is taken from the said Lot, analysed and found to contain:

5.1.2.1 any anabolic androgenic steroids or other anabolic agents, including but not limited to selective androgenic receptor modulators ("Anabolic Steroids") that are substances prohibited at all times under the BHA's Prohibited List Code as published and in force at the date of the Sale (the "Code") in concentration to or equal to or greater than the minimum concentration relevant to the sex of the Lot set out in the Code where applicable and, where no minimum concentration for the substance relevant to the sex of the Lot is stated therein, in any amount ("the Specified Concentration") and/or

5.1.2.2 any Bisphosphonates contrary to the BHA's Running Requirements Code ("Bisphosphonates").

5.1.3 A Purchaser may ask for a blood sample to be taken from a Lot for the purpose of testing for Anabolic Steroids and Bisphosphonates when signing the Acknowledgement of Purchase Form in accordance with Condition 9.5. The Purchaser shall be responsible to Goffs UK for the costs and expenses of taking and testing the sample unless the sale is cancelled under this Condition, in which case Condition 5.1.9(c) will apply. Failure to request a blood analysis under this Condition will be an absolute bar to the Purchaser returning the Lot under this Condition. Where a blood analysis is requested the Lot shall not be removed from the United Kingdom and Ireland. If a Lot is so removed and the Purchaser elects to return the Lot in accordance with this Condition, the Purchaser shall be liable for the costs of returning the Lot back to the Vendor.

- 5.1.4 When a Purchaser makes a request under Condition 5.1.3 the Vendor shall immediately deliver the Lot to a designated holding area in accordance with Goffs UK's instructions. If the Vendor fails to comply with these instructions the sale may be cancelled at the Purchaser's discretion.
- 5.1.5 When the Lot has been delivered to the holding area designated by Goffs UK, a member of The Panel will take an "A" sample and a "B" sample of blood from the said Lot.
- 5.1.6 If after one hour from the delivery of the Lot to the designated holding area a blood sample has not been taken from the said Lot (notwithstanding that The Panel has used such reasonable endeavours as are commensurate with the circumstances) the Sale may be cancelled at the Purchaser's discretion.
- 5.1.7 The "A" sample will be analysed by a third party at the direction of the BHA and the results of that analysis will be communicated to the Vendor and the Purchaser via Goffs UK. The Vendor and Purchaser expressly acknowledge that subject to Condition 5.1.6, a Lot is only returnable to the Vendor under this Condition if it is found that the "A" sample contains Anabolic Steroids in the Specified Concentration and/or any Bisphosphonates. In that event, the Purchaser may elect to return the Lot to the Vendor in accordance with Condition 5.1.9(a) below. The Vendor and Purchaser acknowledge and accept that although an "A" and "B" sample will be taken from the Lot in accordance with Condition 5.1.5 regard shall not be had to any analysis of the "B" sample for the purpose of this Condition. Where a sample taken from the Lot in accordance with this Condition is damaged, lost or stolen after the Lot has left the designated holding area or is otherwise incapable of being satisfactorily analysed for the purpose of this Condition the Vendor and Purchaser hereby expressly agree that in such circumstances the contract of sale shall stand and the Purchaser be bound to keep and pay the full purchase price for the Lot.
- 5.1.8 Goffs UK shall not be required to pay the Sale Price to the Vendor until the period during which the Purchaser may cancel the Sale in accordance with Condition 5.1.9(a) below has expired and such an election has not been made.
- 5.1.9 (a) If it is found that the "A" sample contains an Anabolic Steroids in the Specified Concentration and/or any Bisphosphonates, the Purchaser may elect to return the Lot to the Vendor. Such an election must be notified to Goffs UK in writing by 5pm on the seventh calendar day after the Purchaser was informed of the result by Goffs UK. Where a Purchaser elects to return a Lot in accordance with this Condition Goffs UK shall notify both parties that the contract of sale is cancelled and the Lot will be at the Vendor's risk from such time that he is notified and the Vendor must arrange and pay for any transport, keep and any other costs incurred by the Purchaser in connection with this Lot.
- (b) The Lot shall be at the Purchaser's risk in all respects from the fall of the hammer until notice is given by Goffs UK in accordance with Condition 5.1.9(a) above. For the avoidance of a doubt, in any case where Goffs UK has been given such notice the Lot will be at the risk of the Vendor from that point.
- (c) If the Purchaser has elected to return the Lot to the Vendor in accordance with this Condition the Vendor Shall:
- (i) pay Goffs UK on invoice a sum equivalent to the commission that would be payable under these Conditions of Sale had the contract of sale not been cancelled by the Purchaser.

- (ii) pay Goffs UK on invoice its charge for taking the sample, having it analysed under the sole and absolute authority and instruction of the BHA and making and giving decision under this Condition.
- (iii) indemnify Goffs UK against all costs, claims, demands, actions and expenses out of or in connection with its decision under this Condition.

5.1.10 The Vendor and Purchaser hereby acknowledge and agree that Goffs UK is entitled to provide to the BHA any sample taken from the Lot in accordance with this Condition for analysis under the sole and absolute authority and instruction of the BHA together with their details and understand and accept that the BHA may use any information obtained in connection with their analysis of the sample for the purpose of exercising its powers under the Rules of Racing as published by the BHA and as amended from time to time.

## 5.2 Permanent Import Testing

5.2.1 The Rules of Racing require that a horse which is to be permanently imported to Great Britain shall have a sample collected and analysed to detect for the presence of Bisphosphonates and/or Substances and Methods Prohibited at all Times (as defined in Condition 5.2.3.2 below). This Condition shall only apply where Goffs UK has been notified by the BHA that the Lot requires to pass a BHA Import Test in order to be permanently imported into Great Britain to be trained and/or raced in Great Britain. A List of these Lots will be posted on the notice board in the Sales Office prior to and during the Sale.

5.2.2 This Condition stands alone and is separate and distinct from Condition 4 and applies to all Lots.

5.2.3 A Lot shall be returnable by the Purchaser to the Vendor where, in accordance with this Condition, a sample of blood is taken from the said Lot, analysed and found to contain:

5.2.3.1 Bisphosphonates and/or

5.2.3.2 shows evidence of use of any method prohibited at all times under the Code or presence of a substance prohibited at all times under the Code in concentration equal to or greater than the minimum concentration relevant to the sex of the Lot set out in the Code and, where no minimum concentration for the substance relevant to the sex of the Lot is stated therein, in any amount ("Substances or Method Prohibited at all Times").

5.2.4 A Purchaser may ask for a blood sample to be taken from a Lot when signing the Acknowledgement of Purchase Form in accordance with Condition 9.5. The Purchaser shall be responsible to Goffs UK for the costs and expenses of taking and testing the sample unless the sale is cancelled under this Condition, in which case Condition 5.2.10(d) will apply. Failure to request a blood analysis under this Condition will be an absolute bar to the Purchaser returning the Lot under this Condition. Where a blood analysis is requested the Lot shall not be removed from the United Kingdom and Ireland. If a Lot is so removed and the Purchaser elects to return the Lot in accordance with this Condition, the Purchaser shall be liable for the costs of returning the Lot back to the Vendor.

5.2.5 When a Purchaser makes a request under Condition 5.2.4 the Vendor shall immediately deliver the Lot to a designated holding area in accordance with Goffs UK's instructions. If the

Vendor fails to comply with these instructions the sale may be cancelled at the Purchaser's discretion.

- 5.2.6 When the Lot has been delivered to the holding area designated by Goffs UK, a member of The Panel will take an "A" sample and a "B" sample of blood from the said Lot.
- 5.2.7 If after one hour from the delivery of the Lot to the designated holding area a blood sample has not been taken from the said Lot (notwithstanding that The Panel has used such reasonable endeavours as are commensurate with the circumstances) the Sale may be cancelled at the Purchaser's discretion.
- 5.2.8 The "A" sample will be analysed by a third party at the direction of the BHA and the results of that analysis will be communicated to the Vendor and the Purchaser via Goffs UK. The Vendor and Purchaser expressly acknowledge that subject to Condition 5.2.7 a Lot is only returnable to the Vendor under this Condition if it is found that the "A" sample contains any Bisphosphonates and/or Substances and Methods Prohibited at All Times. In that event, the Purchaser may elect to return the Lot to the Vendor in accordance with Condition 5.2.10(a) below. The Vendor and Purchaser acknowledge and accept that although an "A" and "B" sample will be taken from the Lot in accordance with Condition 5.2.6 regard shall not be had to any analysis of the "B" sample for the purpose of this Condition. Where a sample taken from the Lot in accordance with this Condition is damaged, lost or stolen after the Lot has left the designated holding area or is otherwise incapable of being satisfactorily analysed for the purpose of this Condition the Vendor and Purchaser hereby expressly agree that in such circumstances the contract of sale shall stand and the purchaser be bound to keep and pay the full purchase price for the Lot.
- 5.2.9 Goffs UK shall not be required to pay the Sale Price to the Vendor until the period during which the Purchaser may cancel the Sale in accordance with Condition 5.2.10(a) below has expired and such an election has not been made.
- 5.2.10 (a) If it is found that the "A" sample contains any Bisphosphonates and/or Substances or Method Prohibited at all Times, the Purchaser may elect to return the Lot to the Vendor. Such an election must be notified to Goffs UK in writing by 5pm on the seventh calendar day after the Purchaser was informed of the result by Goffs UK. Where a Purchaser elects to return a Lot in accordance with this Condition Goffs UK shall notify both parties that the contract of sale is cancelled and the Lot will be at the Vendor's risk from such time that he is notified and the Vendor must arrange and pay for any transport, keep and any other costs incurred by the Purchaser in connection with this Lot.
- (b) The Lot shall be at the Purchaser's risk in all respects from the fall of the hammer until notice is given by Goffs UK in accordance with Condition 5.2.10(a) above. For the avoidance of a doubt, in any case where Goffs UK has been given such notice the Lot is at the risk of the Vendor from that point.
- (c) If the Purchaser has elected to return the Lot to the Vendor in accordance with this Condition the Vendor shall:
- (i) pay Goffs UK on invoice a sum equivalent to the commission that would be payable under these Conditions of Sale had the contract of sale not been cancelled by the Purchaser.

(ii) pay Goffs UK on invoice its charge for taking the sample, having it analysed under the sole and absolute authority and instruction of the BHA and making and giving decision under this Condition.

(iii) indemnify Goffs UK against all costs, claims, demands, actions and expenses out of or in connection with its decision under this Condition.

5.2.11 The Vendor and Purchaser hereby acknowledge and agree that Goffs UK is entitled to provide to the BHA any sample taken from the Lot in accordance with this Condition for analysis under the sole and absolute authority and instruction of the BHA together with their details and understand and accept that the BHA may use any information obtained in connection with their analysis of the sample for the purpose of exercising its powers under the Rules of Racing as published by the BHA and as amended from time to time.

### **5.3 PROHIBITED SUBSTANCES (other than Anabolic Steroids and Bisphosphonates (see Condition 5.1))**

5.3.1 This Condition stands alone and is separate and distinct from Condition 4 and applies to all Lots.

5.3.2 Where Prohibited Substances are referred to in a certificate signed by an independent veterinary surgeon and read out by Goffs UK at the time of the Sale the Condition will apply but the Lot shall not be returnable to the Vendor unless other Prohibited Substances than those certified and read out are present.

5.3.3 A Purchaser may ask for a blood sample to be taken from a Lot for the purpose of testing for Prohibited Substances when signing the Acknowledgement of Purchase Form in accordance with Condition 9.5. The Purchaser shall be responsible to Goffs UK for the costs and expenses of taking and testing the sample unless the said sample contains Prohibited Substances other than those certified and read out and the sale is cancelled under this Condition, in which case the Vendor shall be responsible for such costs and expenses. Failure to request a drug test under this Condition will be an absolute bar to the Purchaser returning the Lot under this Condition.

5.3.4 When a Purchaser makes a request under Condition 5.3.3 the Vendor shall immediately deliver the Lot to a designated holding area in accordance with Goffs UK's instructions where a member of The Panel will take a sample from the said Lot. If the Vendor fails to comply with these instructions the Sale may be cancelled at the discretion of the Purchaser.

5.3.5 Where a Purchaser instructs Goffs UK to take and test a blood sample the said Lot shall not be removed from the United Kingdom or Ireland and if they do so, the Purchaser shall be liable for the costs of returning the Lot back to the Vendor in the event of a Purchaser electing to return the Lot in accordance with a right to do so under this Condition.

5.3.6 If after one hour from the delivery of the Lot to the designated holding area a blood sample has not been taken from the said Lot (notwithstanding that The Panel has used such reasonable endeavours as are commensurate with the circumstances) the Sale may be cancelled at the Purchaser's discretion.

5.3.7 Where a blood sample is found to contain Prohibited Substances other than those certified and read out the Purchaser may elect to return the Lot to the Vendor providing such election is made to Goffs UK by 5pm on the seventh calendar day after the Purchaser was notified by Goffs UK of the result.

5.3.8 Where a Purchaser elects to return a Lot in accordance with this Condition, Goffs UK shall notify both parties that the Sale is cancelled, and the Lot will be at the Vendor's risk from such

time that he is notified. The Vendor must arrange for the Lot to be collected, and pay for any such transport, and any other reasonable costs incurred by the Purchaser in connection with this Lot subject to Condition 5.3.5.

#### **5.4 PIROPLASMOSIS**

- 5.4.1 This Condition stands alone and is separate and distinct from Condition 4 and applies to all Lots.
- 5.4.2 Where a Lot is described without qualification as positive for Piroplasmosis in a certificate signed by an independent qualified veterinary surgeon and read out by Goffs UK at the time of the Sale the Condition will apply but the Lot shall not be returnable to the Vendor. Where a Lot is not so described, the Lot shall be returnable to the Vendor in accordance with this Condition where Goffs UK decides in its absolute discretion that a blood sample taken from the said Lot in accordance with this Condition for Piroplasmosis under OIE Protocol using a Piro IFAT test and the ELISA test (“the Prescribed Test”) contains the specified levels of either *Theileria equi* or *Babesia caballi*.
- 5.4.3 A list showing the specified levels for *Theileria equi* and *Babesia caballi* is available upon request made to Goffs UK and Purchasers and Vendors are advised to check the current specified levels before purchasing or entering a Lot for sale.
- 5.4.4 A blood sample will be taken from the Lot where the Purchaser instructs Goffs UK to do so immediately after purchase of the Lot by signing to this effect on the Acknowledgement of Purchase Form supplied by Goffs UK for the purpose of this Condition and to have the sample tested for the presence of Piroplasmosis. The Purchaser shall be responsible to Goffs UK for the costs and expenses of taking and testing the sample unless the said sample is found to be positive in accordance with Condition 5.4.2 in which event the Vendor shall be responsible for such costs and expenses. (For the avoidance of doubt, any sample not found to be negative shall be deemed to be positive). Failure to request a test for Piroplasmosis under this Condition will be an absolute bar to the Purchaser returning the Lot under this Condition.
- 5.4.5 When an instruction under Condition 5.4.4 is received the Vendor shall immediately deliver the Lot to a designated holding area in accordance with Goffs UK instructions, where a member of The Panel will take a sample from the said Lot. If the Vendor fails to comply with these instructions the Sale may be cancelled at the discretion of the Purchaser.
- 5.4.6 If after one hour from the delivery of the Lot to the designated holding area a sample has not been taken from the said Lot (notwithstanding that The Panel have used such reasonable endeavours as are commensurate with the circumstances) the Sale may be cancelled at the Purchaser’s discretion.
- 5.4.7 Goffs UK shall exercise its absolute discretion in making a decision under Condition 5.3. Goffs UK decision shall be final and binding on both Vendor and Purchaser and Goffs UK shall not be responsible for any loss or expense incurred by any party arising out of its decision.
- 5.4.8 The Purchaser expressly acknowledges that, although there are other methods of testing for Piroplasmosis, a Lot is only returnable to the Vendor if it is decided by Goffs UK that the

sample taken from a Lot and tested using the Prescribed Test contains the specified levels of either *Theileria equi* or *Babesia caballi*. The Purchaser further acknowledges that the presence of either *Theileria equi* or *Babesia caballi* in the sample at levels below the specified levels is not a ground for return of a Lot to the Vendor, in which instance the Purchaser shall be bound to keep and pay the full amount of the purchase price for the Lot.

- 5.4.9 Where a Purchaser instructs Goffs UK to take and test a blood sample the said Lot shall not be removed from the United Kingdom or Ireland and if they do so, the Purchaser shall be liable for the costs of returning the Lot back to the Vendor in the event of a Purchaser electing to return the Lot in accordance with a right to do so under this Condition.
- 5.4.10 Where a sample is found to be positive the Purchaser may elect to return the Lot to the Vendor providing such election is made to Goffs UK by 5pm on the seventh calendar day after the Purchaser was notified by Goffs UK of the result.
- 5.4.11 Where a Purchaser elects to return a Lot in accordance with this Condition Goffs UK shall notify both parties that the Contract of Sale is cancelled and the Lot will be at the Vendor's risk from such time that he is notified. The Vendor must arrange for the Lot to be collected, and pay for any such transport, and any other reasonable costs incurred by the Purchaser in connection with this Lot subject to Condition 5.3.9.

## **5.5 FURTHER SAMPLING**

- 5.5.1 Nobody may remove a sample of hair, blood or any other testable material from any Lot while on Goffs UK Premises, without specific permission from the Vendor. No sample of hair, blood, urine or other testable material from any Lot, other than those described in Condition 5 shall be used as reason for the return of any Lot.

## **6. ENGAGEMENTS**

- 6.1 A Lot is sold with engagements as given in the Catalogue, or announced at the time of Sale. Goffs UK however, accept no responsibility for engagements given or omitted. It will be the sole responsibility of the Vendor to ensure that the relevant documentation is completed and lodged with the Authority in question, but of the Purchaser to cancel any race entry if a forfeit applies. A Declaration of Forfeit for UK engagements must be made to Weatherbys, for Irish engagements to Horse Racing Ireland, for French engagements to France Galop and for Swedish engagements to the Svensk Galopp.
- 6.2 In particular Goffs UK do not warrant that a Lot is eligible for participation in any breeders' scheme whether European or American notwithstanding that a statement to that effect or so implying may have been included in the Catalogue or made from the Rostrum.

## **7. PRIVATE SALES**

- 7.1 Any sale concluded between a Purchaser and a Vendor within seven calendar days following the last day of the Sale at which the Lot was unsold or bought in by the Vendor shall be subject to the Conditions of Sale. Such transactions must be finalised in writing on a Private Sale Form signed by the Vendor, the Purchaser and an authorised representative of Goffs UK.

For the avoidance of doubt, this includes any sale conducted on line. The terms of Condition 9 below will apply to the Purchaser.

- 7.2 Where Goffs UK accepts the transfer of a Lot from the Purchaser to a third party (the New Purchaser), the appropriate Private Sale Form must be completed in the Sales Office. The terms of Condition 9 below will apply to the new Purchaser.

## **8. PASSING OF RISK AND TITLE**

- 8.1 The Lot will be at the Vendor's risk at all times until the fall of hammer (or time of sale if sold privately) when the risk shall pass to the Purchaser subject to Conditions 8.2 and 8.3 below.
- 8.2 Any Lot sold Subject to Re-examination of Wind only under the terms of Condition 4.1 above shall be at the Vendor's risk for 60 minutes from the fall of the hammer or, if Re-examination is requested, until the completion of the re-examination. Risk remains with the Vendor if/when the Lot fails the examination and passes to the Purchaser if/when the Lot passes.
- 8.3 Any Lot tested for Prohibited Substances and/or Piroplasmiasis under the terms of Condition 5 above shall remain at the Vendor's risk from the fall of the hammer until the sample has been taken from the Lot when risk passes to the Purchaser. If the sample proves to be positive for Prohibited Substances and Methods or Piroplasmiasis, risk will pass back to the Vendor when the Vendor is notified.
- 8.4 Notwithstanding the passing of risk in this Condition or delivery of the Lot to the Purchaser, the Vendor shall retain title to the Lot until the full purchase price has been paid to Goffs UK.
- 8.5 Where Goffs UK have paid out the Vendor in accordance with 3.8 above, title of the Lot will vest in Goffs UK on the same terms as 8.4 above.

## **9. PURCHASERS**

- 9.1 All purchases are subject to 6% buyer's commission as outlined in Condition 2.1.4.
- 9.2 Goffs UK strongly recommend that Purchasers should attend the Sale in person and Purchasers are strongly advised to inspect each Lot prior to purchase. It is the responsibility of the Purchaser to ensure that he is satisfied with the condition of any Lot before bidding. Prospective purchasers may use a Veterinary Surgeon of their own choice to check or inspect the condition of any Lot prior to sale provided the consent of the Vendor is obtained in advance, that the Vendor expressly consents to the form of inspection to take place and it is understood by prospective purchasers that such consent is entirely at the Vendor's own discretion.
- 9.3 All Lots are sold subject to these Goffs UK Conditions of Sale and are subject to any announcements that may be made by the Auctioneer. A Vendor may call upon Goffs UK to amend the Catalogue description at the Sale and it is the Purchaser's responsibility to ensure he hears any such announcement made by the auctioneer as a consequence. The information on the Goffs UK notice board, website and announcement boards in the Sales ring is for guidance only and Goffs UK is not liable for any error or omission from such information.

- 9.4 All certificates referred to in the Catalogue will be available for inspection in the Sales Office prior to the Sale.
- 9.5 Immediately after the purchase of each Lot, the Purchaser must sign the Acknowledgement of Purchase Form confirming the sales details together with his name, address and other information as required by Goffs UK.
- 9.6 Subject to Condition 9.9, payment must be made in pounds sterling by the Purchaser for each Lot on the day of the Sale and the Lot must be removed by the Purchaser by the close of each day's sale. Prior to the Sale Goffs UK may agree to other payment terms at their discretion and may allow the Purchaser to remove the Lot before full payment has been received. In the event that payment is not received under the agreed terms, Goffs UK will endeavour to collect the debt by whatever means are deemed appropriate. Goffs UK will not accept payments in cash for any Lot
- 9.7 No Lot will be raced until it has been paid for in full.
- 9.8 Where a Purchaser bids or buys on behalf of another, the Purchaser must disclose the name and address of his principal when required by Goffs UK and both the Purchaser and his principal shall be jointly and severally liable under these Conditions.
- 9.9 Where the Purchaser notifies Goffs UK after the Sale that a Lot has been bought on behalf of another and asks Goffs UK to invoice that person ("the Nominee"), Goffs UK (at its absolute discretion) may agree to do so, on the basis that the Purchaser and the Nominee will be jointly and severally liable to pay the Purchase Price. The Purchaser's payment obligations in respect of the relevant Lot will only be discharged in the event that the Nominee has paid the whole of the Purchase Price. However, where the Nominee pays part of the sum due but the remainder is unpaid, Goffs UK's claim shall be limited to the unpaid sum.
- 9.10 Where a Vendor and a Purchaser agree to terms not covered by the Conditions of Sale, a copy of that agreement must be lodged in writing in the Sales Office before the Sale, and approved by Goffs UK. If no such copy of the agreement is lodged, and any dispute arises as a result of this agreement between the Vendor and the Purchaser, Goffs UK will demand that the Purchase Price is paid in full in accordance with Condition 9.6 unless the Vendor has notified Goffs UK in writing that the sale has been cancelled, in which case Condition 2.1.4 shall apply.

## **10. GOFFS UK RIGHTS/ EXCLUSIONS AND LIMITATIONS**

- 10.1 Goffs UK reserve the right to exclude or remove any person or animal from their premises without giving any reason.
- 10.2 Goffs UK, as Agents for the Vendor, reserve the following rights, viz:
- (a) To refuse the bidding of any person, without giving any reason.
  - (b) To bid by themselves for any Lot.
  - (c) To withdraw the Lot from sale at any time before it has been knocked down without disclosing the reserve price.
  - (d) To fix a minimum price at any or all Sales.
- 10.3 Goffs UK do not make any representation whatsoever express or implied as to the identity of the Owner or Owners of any Lot at the time of entry, time of sale or at any other time. In the

event of any dispute the Purchaser's remedy, if any, shall be against the Vendor and the Vendor's remedy shall be against the Purchaser, and not against Goffs UK who act as Agents between Vendor and Purchaser and shall not be liable as a Party in any action or dispute between them.

- 10.4 Goffs UK reserve the right to charge interest on unpaid accounts at 1.5% per month or part thereof on all accounts which are unpaid 21 days after the last date of the Sale.
- 10.5 Goffs UK reserve the right to charge the Purchaser £30 per day for any horse remaining at Goffs UK after 5.00 p.m. on the day following its day of sale. In the case of unsold horses Goffs UK reserve the right to charge the Vendor £30 per day.
- 10.6 If for any reason a Lot is purchased and not paid for as hereinbefore provided (notwithstanding if the risk has passed to the Purchaser) then the following provisions shall take effect until payment is received:
- (a) Goffs UK shall be entitled to retain the Lot, and shall have a lien over the Lot and all documents relating to it for all expenses, including freight, incurred by them or any agent of Goffs UK during such period of retention. Such lien may be exercised in respect of any other sum due by the Purchaser to Goffs UK. Goffs UK shall also be entitled to exercise the said lien over any documents in their possession relating to any other Lot or Lots owned by the Purchaser. A Lot shall not be delivered to the Purchaser until the expenses referred to above have been paid, in addition to the Purchase Price.
  - (b) In the event of a Lot having been removed from Goffs UK Premises then Goffs UK shall be entitled to repossess the Lot from anyone in possession of it.
  - (c) Should the Purchaser fail to pay for a Lot then such Lot may at any time be resold by public auction or private treaty, and the deficiency (if any) resulting from such resale shall immediately be made good by the defaulting Purchaser.
  - (d) Nothing in these Conditions shall preclude Goffs UK and/or the Vendor of a Lot from pursuing all legal remedies available to them for the recovering of the Purchase Price from a defaulting Purchaser and all expenses and damages and commission lost resulting from such default.
- 10.7 Goffs UK will not release any Lot from the Sales Complex until a written release form in the form of a pass-out has been issued by Goffs UK.
- 10.8 Goffs UK may at any time, without notice, set off any liability of a Debtor (including but not limited to the outstanding purchase price of any Lot) against any liability of any Associated Company to the Debtor (whether any such liability is present or future, actual or contingent, liquidated or unliquidated and irrespective of the currency of its denomination) and Goffs UK may for such purpose convert or exchange any currency.
- 10.9 Any exercise by Goffs UK of its rights under Condition 10.8 shall be without prejudice to any other rights or remedies available to Goffs UK under these Conditions or otherwise.

## **11 COMPLAINTS PROCEDURE**

The Complaints Procedure applies only in the circumstances set out in Condition 12 below. For the avoidance of doubt, the clinical examinations in Condition 4 above do not apply to this Condition 11 as those examinations must be dealt with on the day of (or the day following) the Sale by the Panel.

- 11.1 A Purchaser wishing to invoke this Condition must do so by informing Goffs UK in writing (as per Condition 16) **by 5.00 pm on the seventh calendar day after the Lot was purchased** (third calendar day in the case of Conditions 12.1.5 & 12.1.6) giving specific details of their complaint, supported by a certificate signed by an independent qualified veterinary surgeon (or independent professional rider in the case of Conditions 12.1.5 & 12.1.6)
- 11.2 The complaint shall be dealt with by Goffs UK, or their appointee, which may be a veterinary surgeon or professional rider, deemed appropriate by Goffs UK, at such time, at such place and in such manner as Goffs UK deems appropriate. The decision of Goffs UK on the complaint shall be final and binding on both the Vendor and the Purchaser. Goffs UK may have the Lot examined by their appointee and where the opinion of their appointee does not agree with the opinion of the Purchaser's appointee as expressed in his certificate furnished, then the opinion of Goffs UK appointee shall prevail and shall be final and binding on the parties.
- 11.3 All expenses and charges incurred by such adjudication, as well as the transport and keep costs of any Lot, shall be paid by the Party found to be in error.
- 11.4 For the avoidance of doubt risk remains with the Purchaser throughout any complaint and only passes back to the Vendor when both parties are notified of Goffs UK decision to cancel the sale (if appropriate).
- 11.5 It will be the Purchaser's responsibility to transport the lot at their cost within five days to a referee in Ireland, the United Kingdom or France as appointed by Goffs UK.
- 11.6 No Lot may be returned for the reasons set out in Condition 12 if it has raced following the Sale.

## **12 LOTS RETURNABLE**

- 12.1 The Complaints Procedure set out in Condition 11 above will only apply if the information in 12.1 below is not stated in the Catalogue or is not announced from the rostrum at the Sale or if the conditions in 12.2 below are not declared in the Catalogue or are not announced without qualification from the rostrum at the Sale. In these cases, the Sale may be cancelled at the discretion of the Purchaser.
- 12.1.1 The Lot is not registered with a Stud Book Authority approved by the International Stud Book Committee.
- 12.1.2 The pedigree or description of the Lot does not correspond with the pedigree or description as stated in the Catalogue.
- 12.1.3 The Lot has run at an unrecognised meeting or is on the forfeit list maintained by a recognised Turf Authority
- 12.1.4 The Lot is described as a Colt and does not at such time have both testes palpable (this provision is to apply only to any horse offered for sale after 1<sup>st</sup> July of their yearling year and may be so described by the auctioneer, or on the bid board, as a rig).

12.1.5 The Lot is described as unbroken and should have more properly been described as broken and ridden prior to the Sale. For the avoidance of doubt a Lot described as driven in long reins will not be returnable under this Condition.

12.1.6 The Lot is described as untried and should have more properly been described as tried prior to Sale. A Lot will be considered tried if it

- a) has run in any race
- b) has been catalogued in any previous Breeze-Up Sale
- c) has appeared on any published Trainer's or Permit Holder's List
- d) is deemed to have been galloped "upsides" prior to Sale
- e) is deemed to have been broken and tried prior to Sale

12.1.7 The Lot is subject of a Starting Stalls Test as ordered by the BHA/ I.H.R.B.

12.1.8 The Lot is a Broodmare/Filly which has been covered and/or, subsequent to any covering, has slipped the foal.

12.1.9 The microchip number, markings or vaccinations for the Lot do not correspond to the microchip number, markings or vaccinations provided for the Lot by the Vendor prior to the Sale.

12.2. Any Lot which:

- a) is a wind-sucker, (i.e. frequently swallows air whether in association with grasping fixed objects with incisor teeth or not; a crib-biter is not returnable unless the crib-biting is associated with wind-sucking, in which case the Lot is returnable as a wind-sucker); or
- b) has been operated on for the correction of wind-sucking as defined above; or
- c) is a weaver; ( i.e. frequently swings its head and neck to and fro and transfers weight from one forelimb to the other alternately) or
- d) is a boxwalker (i.e. frequently walks either backwards and forwards or round and round the box repeatedly in an aimless manner) ); or
- e) has been tubed or otherwise operated on for unsoundness in wind (Operations to treat the displacement of the soft palate, including the operations tie forward, cautery of the soft palate, trimming of the soft palate and myectomy are not operations for the correction of unsoundness in wind within the meaning of this condition); or
- f) has impaired vision or injury to the eye; or
- g) is a wobbler ; or
- h) has been unnerved

## **13 DISPUTES**

13.1 Any dispute arising out of the sale of any Lot in accordance with these Conditions of Sale shall be a dispute between the Vendor and the Purchaser and in no circumstances shall Goffs UK be liable to either party in connection with such dispute.

13.2 Where Goffs UK are brought in as a party to any dispute despite 13.1 above, Goffs UK will be entitled to payment of their legal and other expenses on a full indemnity basis from the party who joins them in.

## **14 SAFETY**

- 14.1 Every person on Goffs UK Premises before, during or after the Sale shall be deemed to be there at their own risk and shall have no claim against Goffs UK in respect of any injury sustained or any loss or damage to property which may occur from any cause whatsoever save that nothing in this sub-clause shall be taken to exclude or restrict liability for death or personal injury arising from Goffs UK's negligence
- 14.2 Goffs UK accept no liability for any, disease, accident, loss or fatal or non-fatal injury caused to a Lot (including death, theft or injury) or caused by any Lot while it is being moved by Goffs employees, agents or subcontractors between yards and Goffs UK Premises or at any time whilst it is on Goffs UK Premises. Provided always, that nothing in this sub-condition shall be taken to exclude or restrict Goffs UK's liability at law for death or personal injury to persons arising from Goffs UK's negligence.
- 14.3 All lots must wear a headcollar at all times on Goffs UK Premises. Where a Vendor is found to have left a Lot without a headcollar after the Sales, Goffs UK will supply a headcollar at the Vendor's expense.
- 14.4 All lots being exercised or being shown to prospective purchasers, must have a bit in their mouth at all times on Goffs UK Premises.
- 14.5 If any Lot is ridden at any time in conjunction with the Sale, the rider must wear an approved helmet and back protector, and it shall be the responsibility of the Vendor or Purchaser to ensure that they, their employees or agents, adhere to this Condition.

## **15 GENERAL**

- 15.1 Goffs UK reserve the right to add, cancel, alter or otherwise modify these Conditions of Sale.
- 15.2 These Conditions of Sale form the entirety of the agreement between Goffs UK, the Owner, the Vendor and the Purchaser and no variation shall be valid or binding unless specifically authorised in writing by two Executive Directors of Goffs UK.
- 15.3 These Conditions of Sale are to be construed and shall take effect in accordance with English Law.
- 15.4 The Owner, the Vendor and the Purchaser agree for the exclusive benefit of Goffs UK that these Conditions of Sale shall be subject to the non-exclusive jurisdiction of the Courts of England and Wales and, for such purpose, irrevocably submit to the non-exclusive jurisdiction of those Courts.
- 15.5 The submission to the jurisdiction of the Courts of England and Wales shall not limit the right of Goffs UK to take proceedings against the Owner, the Vendor or the Purchaser in any other Court of competent jurisdiction and the taking of proceedings in one or more jurisdictions shall not preclude the taking of proceedings in any other jurisdiction whether concurrently or not.

## **16 NOTICES**

When any certificate or notice is required to be given to Goffs UK under these Conditions of Sale, it must be made in writing and sent by first class post to the Goffs UK Hawick Office or emailed to winners@goffsuk.com. Any notice required to be given by Goffs UK to the Vendor or the Purchaser shall be sent to the address given on the Entry Form or the Acknowledgement of Purchase Form. Such notice shall be deemed given on the date of delivery or the second day after posting or on the day of transmission depending whether the notice is sent by hand, post or email.

## **APPENDIX 1**

### Vendors' Sale Requirements

#### A.1.1 BREEZE UP 2-YEAR-OLDS

- Passport, Intra-Community Health Certificate (dated within 14 days of sale)
- Up-to-date flu vaccinations in accordance with A.1.2

A.1.2 FLU VACCINATIONS: All Lots to be fully vaccinated in accordance with BHA guidelines. All horses must have at least two primary injections to be given not less than twenty-one (21) and not more than ninety-two (92) days apart. A booster injection should be given less than one hundred and fifty (150) and not more than two hundred and fifteen (215) days apart. Thereafter one injection should be given annually. All injections should be recorded in the passport.

A.1.3 IMPORT/EXPORT: It is the responsibility of the Vendor to ensure that all Import/Export documents have been completed prior to Sale or the Lot must be withdrawn. No horse will be offered for sale unless both the Passport & Ownership Card have been lodged in the Sales Office. For horses being imported from France, Goffs UK will return the relevant documentation to France-Galop and will deduct the Export fee from the sale proceeds. Goffs UK will not pay the sale proceeds to the Vendor until the appropriate documentation has been completed