

# Conditions of sale

These Conditions of Sale have been translated and are deemed accurate. Nevertheless, the sale is ruled by the French version of the Conditions of Sale and if a difference was to be found between the French and the English translation, the French version would be the one that rules.

It is assumed that all buyers and vendors are familiar with, and have accepted these conditions of sale. These conditions shall apply to all transactions performed by ARQANA. These conditions are in accordance with the law of July 10<sup>th</sup>, 2000 and articles 2001- 650, 651, 652 (modified) which deal with the voluntary sale by public auction of movable goods, as well as the law of July 20<sup>th</sup>, 2011, decree n°2011-850, and the French commercial code.

These are public auctions and so entry to the sales grounds must be free and open to all. However, due to the risks involved with the showing of horses, all those who visit the sales grounds do so at their own risks and are obliged to comply with any rules and recommendations expressed by the management of the sales company.

## Article 1 - Sales by public auction.

ARQANA shall act on behalf of the vendors, who agree to give full responsibility to ARQANA regarding all inherent operations to the sale including invoicing and collection of sales proceeds. These conditions of sale shall apply in every instance unless an announcement to the contrary is made before the sale or specified in the official sales record.

**According to the law of July 10<sup>th</sup>, 2000, any private sale of a horse that has been offered for sale by auction by ARQANA and that, having been bought back by its vendor, is the subject of a subsequent private sale with the concurrence of ARQANA, shall be considered as a sale by public auction for all instances where these conditions apply.**

The responsibility of ARQANA shall not be claimed by any buyer or vendor for any case that is not defined in the present conditions of sale, which vendors and buyers are assumed to have contractually accepted. Broadly speaking, inobservance of the present conditions of sales shall release ARQANA from any liability towards buyers and third parties.

## Article 2 - Bidding.

### Minimum bid:

- **February Mixed sale: €1,000**
- **Breeze up sale: €5,000**
- **Summer sale: €1,500**
- **August Yearling sale: Days I & II: €10,000 - Day III: €5,000**
- **V.2 Yearling sale: €5,000**
- **Purebred Arabian sale: €3,000**
- **Arc Sale: €10,000**
- **October Yearling Sale: Day I: €5,000 – Days II & III: €2,000 – Days III & IV: €1,000**
- **Autumn Sale: €1,000**
- **Breeding Stock sale: Day I: €3,000 - Days II, III & IV: €1,000**

In accordance with the law, bids shall be accepted and displayed in Euros and conversions into other currencies shall be provided for information purposes only.

When it is established that two or more people have made a bid of the same amount at the same time on the same horse, either vocally or by a sign, and when the hammer falls they simultaneously claim the horse, then the horse shall immediately be reoffered publically, starting at the price of the last bid and with all those present allowed to participate. The horse shall then be sold to the highest bidder.

ARQANA reserves the right to refuse the bids of anyone who does not provide proof of established solvency and in particular, shall refuse the bids of those who have not settled their previous purchases at ARQANA or any other sales organisation. Any lot that is not paid immediately may be put back up for sale on the ground of “irresponsible bid”, at the same session or any subsequent one, without any formal summons or legal procedure and at the irresponsible bidder’s own risk. The irresponsible bidder shall be bound to settle the difference between the original adjudication price and the price reached on second intention, and shall have no claim to any surplus which will be passed on to the original vendor.

ARQANA shall be exclusively responsible for the determination of irresponsible bids, whenever they may occur.

ARQANA points out that buyers are given the possibility, with the voluntary consent of vendors, to have the veterinary file of the horses examined before the sale by the veterinarian of their choice and at their own expense, or to carry out their own veterinary examination, within the limits of the protocol set out by the French Association of Equine Veterinarians.

Before a veterinary file is handed over, the vendor shall request the buyer or his/her veterinarian to sign a consultation form comprising a confidentiality obligation which shall apply to the full content of the file.

### **Article 3 - Information to be supplied by the vendor.**

All vendors must provide, in writing and before the sale, any announcement that shall be made public, under his/her own responsibility. ARQANA only vouches for the compliance of the declarations communicated by the vendor with those communicated to the public, but shall under no circumstance be held responsible for the accuracy or truthfulness of the vendor's statements, particularly with reference to VAT, description of the horse, pedigree, entries and earnings of horses, returnable vices or last covering date, etc. The vendor shall also specify whether a filly is in training or out of training.

Thus, the vendor shall indicate **in writing and before the sale**, any error or omission in respect of the catalogue so that such errors or omissions may be notified to the public through an announcement from the rostrum **prior to the sale** and entered in the official sales report.

Any vendor who would fail to rectify in writing before the start of the sale the information supplied in the catalogue in respect of the horses he/she is consigning shall be deemed to have accepted such information and therefore responsibility for its truthfulness shall be entirely his/her own.

A veterinary centre is provided to allow veterinarians acting on behalf of buyers or vendors to examine, at their own expense, all X-Rays and video-endoscopies of the horses offered for sale.

ARQANA wishes to draw the attention of buyers to the announcements made from the rostrum during the sale. These announcements may contain information that does not appear in the catalogue.

### **Article 4 - Absence.**

**When a horse listed in a catalogue is absent on the day of selling, the vendor shall, bar force majeure (in case of death, accident or serious illness of the horse, a veterinary certificate must be presented at the latest on the day of the sale), pay ARQANA €800 (excluding tax) in addition to the entry fee, €5,000 € (excluding tax) for the Arc Sale.**

**This amount shall be due if the horse's absence is caused by its presentation at another sale.**

**When a horse is sold privately before the sale, the €800 penalty (excluding tax), €5,000 (excluding tax) for the Arc Sale, shall be due in addition to the other expenses outlined in article 19.**

### **Article 5 - Required documents.**

Horses entered by any vendor shall come to the sale with all documents required by ARQANA: passport including up to date vaccination stamps, ownership card (for French horses), sanitary certificates (depending on the horse's category), as well as covering certificate for in-foal mares, irrespective of the nature of the covering contract.

Before each sale, ARQANA specifies the list of documents to be provided by vendors.

Vendors must lodge such documents with ARQANA before the sale. Should such documents not have been submitted in due course, the vendor may be held responsible, without prejudice to ARQANA's right to **refuse to offer the animal for sale or to remove it from the sales grounds**. In any case, should the sale of the animal go ahead, ARQANA shall under no circumstance be held responsible for the absence of the said documents.

A certificate of **negative "Coggins test" less than 30 days old** shall be submitted to ARQANA's sales office prior to the sale. In the absence of this document, the horse shall not be offered for sale and may be excluded from the sales grounds.

For horse travelling from abroad, an export certificate must be transmitted by the Stud Book Authority of their country of origin to France Galop.

The submission and collection of documents shall always be carried out at ARQANA's sales office. Payment to the vendor shall only be made once ARQANA is in possession of all required documents.

### **Article 6 – Vendor's warranties.**

Horses offered for sale by auction are sold with the sole **legal warranty provided by the French Rural Code (articles 213-1 and R 213-1 et seq.)**, exclusive of any other warranty bar conventional warranties applying to stable vices, abnormal inspiratory sounds and locomotor ataxia (wobbler syndrome).

A veterinarian is available during all ARQANA sales. His/her contact details are available at the sales office to any buyer who would wish to be assisted, at his/her own expense, by a veterinarian for the interpretation of any veterinary file available from the vendor or on the Repository. A sanitary veterinarian mandated by ARQANA is also available in case of a suspicion or observation of an infectious disease. He/She shall be entitled to make the decision to exclude a horse from the sales grounds or place a horse under quarantine on the sales grounds.

#### **Conventional warranties:**

The buyer may seek the resolution of a sale in the case of stable vices, abnormal inspiratory sounds or wobbler syndrome according to the below conditions, and of which he would not have been aware before the sale.

##### **1 - Stable vices:**

Stable vices such as crib-biting, wind-sucking, habitual weaving and habitual box-walking shall be announced from the rostrum, failing which the buyer may seek the resolution of the sale.

Therefore, any lot that

- (a) is a Wind-sucker (i.e. habitually gulps or swallows air whether in association with grasping fixed objects with incisor teeth or not) or a Crib-biter;
- (b) has been operated on for the correction of Wind-sucking as defined above, including Cribbiting;
- (c) is an habitual Weaver (i.e. habitually swings its head and neck to and fro and transfers weight from one forelimb to the other alternately) or
- (d) is an habitual Boxwalker (i.e. habitually walks either backwards and forwards or round and round the box repeatedly in an aimless manner)

shall be returnable unless it has been so described, in which case the lot is not returnable.

### **2 - Abnormal inspiratory sounds:**

Any Lot described as a Yearling (other than one sold in a February Sale to which this sub-condition does not apply), any Lot described as a Two-Year-Old in a February Sale, and any Lot described as a "Store" in the Summer (July) and Autumn (November) sales may be returned, unless it has been so described or described as having been "heard to make a noise" without qualification, if:

- (a) it is a Whistler and/or a Roarer, i.e. makes a characteristic abnormal inspiratory sound when actively exercised and whose scope reveals a Laryngeal Hemiplegia or a Recurrent Laryngeal Neuropathy;
- (b) it has been tubed or otherwise operated upon for the correction of Whistling and/or Roaring (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 Whistling and/or Roaring within the meaning of this sub-condition), or;
- (c) it makes an abnormal inspiratory noise when actively exercised and has (i) a rostral displacement of the palatopharyngeal arch (fourth branchial arch defect); or (ii) a chondroma or severe arytenoid chondritis; or (iii) a cleft palate; or (iv) epiglottic entrapment; or (v) a sub-epiglottic cyst,

Any Lot described as a Horse in Training or showed under tack (May and July Breeze Up sales) may be returned, unless it has been so described, if:

- (a) it is a Whistler and/or Roarer as hereinafter defined (in the case of a Horse In Training, a Whistler and/or a Roarer is a horse that makes a characteristic abnormal inspiratory sound when actively exercised and whose scope reveals a Laryngeal Hemiplegia or a Recurrent Laryngeal Neuropathy);
- (b) it has been tubed or otherwise operated upon for the correction of Whistling and/or Roaring (operations to treat the displacement of the soft palate, including the operations of tie forward, cautery of the soft palate, trimming of the soft palate and myectomy are not considered as operations for the correction of Whistling and/or Roaring within the meaning of this sub-condition).

### **3 - Locomotor Ataxia**

Any Lot which suffers from locomotor ataxia (or cervical spondylomyelopathy or Wobbler syndrom) is returnable under the present condition.

#### **Specific return procedure applying to the three aforementioned resolution cases:**

In case of stable vice or abnormal inspiratory sound or locomotor ataxia, the purchaser may seek the resolution of the sale by sending to ARQANA, either by post or email, a notice in writing before 5:00 p.m. on the 7<sup>th</sup> day after the day on which the lot was sold, along with a veterinary certificate.

Upon the vendor's request, communicated to ARQANA in writing within 4 days from the transmission of the report made by the purchaser's veterinarian, a joint amicable expert evaluation may be ordered by ARQANA. It shall be carried out by a veterinarian appointed by ARQANA, each party being allowed to be assisted by its own veterinarian. Failing agreement between the parties following this second opinion, the purchaser may bring the case before the court according to regular legal remedies, within 30 days from the reception of the amicable evaluation report.

#### **Redhibitory Vices**

Moreover, the vendor shall guarantee the buyer against the vices specified in section R 213-1 of the French Rural Code which he/she would not have declared before the sale.

Any action taken by the buyer in respect of the said redhibitory defects shall be taken in accordance with the provisions of section R 213-3 et seq. of the French Rural Code, i.e. within 10 days from the delivery, not counting the day of delivery, except for periodical inflammation and infectious anaemia for which such period shall be 30 days not including the day of delivery.

All deadlines shall expire on the last day at 12:00 pm. Whenever a deadline expires on a Saturday, a Sunday or a Bank Holiday, it shall be extended to the first working day that follows.

Within the stated period, the buyer must submit to the Judge of the Court relevant to the horse's location a request seeking the appointment of experts commissioned to draw up a report on the examination of the animal, failing what his/her application shall be turned down.

Within the same period, the buyer must initiate one of the legal actions started by the occurrence of a redhibitory vice as defined in articles L. 213-1 to L. 213-9 of the French Rural Code.

Within the same period, the buyer must inform ARQANA, by registered mail, of the submission of his/her claim to the Judge and enclose a veterinary certificate detailing the vice concerned.

### **Veterinary File and Arbitration**

The veterinary file of a horse entered in a sale is compiled by the vendor with the concurrence of his/her veterinarian. It includes X-rays (in accordance with the international protocol), endoscopic videos, as well as any other document that the vendor may consider useful to bring to the attention of buyers' veterinarians.

ARQANA publishes a list of lots whose vendors have declared to have provided a veterinary file. This information is also mentioned on ARQANA's website.

ARQANA provides a Repository for the loading and consultation of veterinary files. The use of the Repository is subject to special conditions and each user (vendor, purchaser and veterinarian) undertakes to respect them. These files are dated less than 30 days before the sale and remain the property of the vendor after the sale. Veterinary files supplied by vendors are reserved exclusively for veterinarians appointed by purchasers. Any veterinarian consulting a file commit themselves to the obligation of confidentiality of all information they may be led to collect. In the case of a file lodged on the Repository, the veterinarian shall also accept its terms and conditions available on ARQANA's website.

ARQANA shall not be held responsible for any mistake in identification or conformity, or lack of legibility of the veterinary files, not for the malfunctioning of the material available in the veterinary centre.

All veterinarians acting on behalf of buyers shall consult the veterinary files and, when applicable, carry out further veterinary examinations, at their own responsibility and expense, within the protocol established by the Association of Equine Veterinarians.

Buyers and vendors undertake not to hold ARQANA responsible in any case of accident caused to a horse or by a horse during its examination by a buyer or his/her veterinarian. They alone shall be responsible for any consequences direct or indirect.

Any purchaser who, by him/herself or through the intermediary of his/her veterinarian mandated for this purpose, will have had or could have had access to the information available in the veterinary centre, will be presumed to have known their contents and shall not be able to take advantage of such information to obtain the cancellation of the sale.

When the buyer did not have access to this information or when no veterinary file was submitted, and within 30 days after the sale, the buyer feels that the horse is affected by a vice, he/she must inform the vendor that he/she intends to request expert opinion on an amicable basis so as to assess grounds for such application.

This examination shall be performed as soon as possible by a veterinary expert agreed upon by both parties or, when no agreement is found, appointed by ARQANA. The duration of the examination shall not be used by the vendor as a reason to challenge the admissibility of further legal action. Barring technicality, both parties may undertake to accept the findings of the said expert.

In all circumstances, the action taken by the buyer to seek the cancellation of the sale shall be pointed directly at the vendor, whose name will be supplied by ARQANA on his/her request.

Under no circumstances can such action be directed against ARQANA, which shall not carry any responsibility.

No claims, even in the case of redhibitory vices, shall be accepted if the buyer has not paid up the full price of his purchase. In case of redhibitory vices or dispute (see article 11) funds shall be withheld at ARQANA.

### **Broodmares:**

Any vendor of broodmares shall specify in the catalogue: the mare's progeny, year by year since her retirement to the breeding shed and, regarding any dead offspring, the mentions; still born, dead at birth or accidental death; the date she was last covered; the assumed pregnancy stage, cases of abortion or twin births.

The vendor shall be responsible for the accuracy of this information. Any action taken by the buyer in respect of an error or omission shall be taken against the vendor only. Should an important piece of information mentioned in the catalogue, or announced from the rostrum at the vendor's request, prove incomplete or inaccurate, the sale may be cancelled at the buyer's request within 30 days from the sale. The vendor may have the stage of pregnancy announced from the rostrum and produce in evidence a certificate issued by a veterinarian within 8 days preceding the sale.

The buyer retains the right to have the broodmare examined by a veterinarian agreed upon by the vendor within 24 hours from the sale before the mare has left the sales complex. Should the findings of the veterinarian contradict the representations made by the vendor, the sale shall be cancelled by right. Any broodmare sold as "not in foal" after indication that she was covered, which would turn out to be "in foal" eventually, shall be returned to the vendor. The latter shall, of course, return the purchase price to the buyer plus an interest of 9% per annum, vendor's commission, the cost of the upkeep at current rate within 15 days from the registered mail sent by the buyer informing him that the mare was confirmed in foal.

However, the buyer shall retain the possibility, if he/she so wishes, to keep the broodmare by offering to the vendor a simple refund of the price of the covering fee without any extra cost. Should the buyer have waited for the mare to foal down, he/she shall be deemed to have agreed to pay the nomination price, whether the offspring is born viable or not.

Prior to the sale, the potential buyer of a filly out of training shall be entitled to seek the vendor's permission to have the mare examined by a veterinarian agreed upon by the vendor to ensure that the mare is fit for reproduction in particular as regards her genitals.

#### **Lot identification**

All vendors shall ensure that each horse offered for sale actually bears the number assigned to it in the catalogue. In the event of an error or confusion, they shall bear sole responsibility therefor and such responsibility shall not befall ARQANA.

ARQANA shall commission a veterinarian to proceed with verifying the identity of the horses. In the case of an investigation, the vendor undertakes to carry out at his/her expense the blood test or any other required procedure to establish the horse's identity.

The vendors undertake to have all the horses presented at the sale undergo the statutory vaccinations required under the French Rules of Racing.

Horses that are sold as a result of a court decision are sold as such in their current state, without any warranty, in accordance with article 1649 of the French Civil Code.

#### **Article 6bis – Prohibited substances - Anabolic Androgenic Steroid (A.A.S), Non-Steroidal Anti-Inflammatory Substances (N.S.A.I.S) and Bisphosphonates - applicable to all lots with the exceptions of mares that have previously been covered by a stallion, and stallions.**

The procedure and conditions hereunder described apply exclusively to the lots designated below and do not in any way affect the conditions of sale relating to the payment of horses purchased.

**A lot refers to all horses with the exceptions of mares that have previously been covered by a stallion, and stallions.**

**The buyer will not be able to request the cancellation of the sale if the administration of one or more of the substances mentioned above has been the subject of a veterinary certificate and an announcement from the rostrum.**

1 - A lot shall be returned to its vendor in the situation when a blood test organised by ARQANA and taken on the day of the sale, in the location designated by ARQANA, would confirm the presence of **one or more prohibited substance(s)**. All expenses incurred by the purchaser shall be payable by the vendor.

2 - All tests must be carried out under the following conditions:

a) The purchaser must instruct ARQANA to take a sample from the said lot such as to test for the presence of **one or more prohibited substance(s)**.

b) Test order must be given by the purchaser immediately after the sale **by signing the designated section** on the purchase docket provided by ARQANA. ARQANA shall not accept any other form of request.

c) As soon as ARQANA has accepted the test order, **the lot must be taken directly from the sales ring to the designated holding area** where a member of the veterinary team appointed by ARQANA will take the sample.

d) This sample will consist of two blood samples (A and B) which will be sent for analysis to the French horse racing Laboratory of Verrières-Le-Buisson (LCH).

e) Sample B will only be analyzed in the event of a confirmatory analysis requested by the seller, in a laboratory of his choice, in accordance with the French race code of gallop.

3 - The results of the blood test and the resulting decision shall be only communicated to the purchaser and the vendor.

4 – In the event of the detection of one or more substances belonging to the categories mentioned above, the decision shall be notified to both the vendor and purchaser, and ARQANA shall not be responsible for any loss or cost incurred to either party as a result of the decision.

5 – In the situation when a purchaser would have exported a lot out of the E.U or to the United Kingdom. before ARQANA had been informed of the result of the blood sample taken on the said lot, the purchaser shall be obliged to take custody of the horse and pay the entire purchase price of the lot, including when **one or more prohibited substance(s)** has(ve) been found in the sample.

6 - In all other cases, should a purchaser wish to return a lot to the vendor, he/she must first notify ARQANA by a notice in writing either by post or email, **within seven days** of having been notified by ARQANA of the positive result of the blood sample. The decision must be notified in writing to ARQANA at its headquarters and shall only be treated by ARQANA if the company has expressly acknowledged receipt of the notification.

7 - In the absence of such notification, the purchaser shall be obliged to retain the lot and become liable for the entire purchase price.

8 - Once ARQANA has acknowledged receipt of the buyer's refusal of sale notification, ARQANA will in turn notify the seller who will then have the opportunity to request a confirmatory analysis **within seven days** from the date of receipt of the notification by ARQANA. During the period of the confirmatory analysis, the lot remains under the responsibility of the buyer.

9 - The purchaser shall be entirely responsible for the lot after the sale and no claim on his/her part shall be accepted in the situation when he/she would not have settled the full purchase price immediately.

10 - From the receipt by ARQANA of the notification of the buyer referred to in point 6 and in the absence of a request for a confirmatory analysis by the seller, **the sale cancelled by rights** and the seller personally make sure that the lot is recovered from the buyer. Under no circumstances may the return of the lot in the premises of ARQANA be accepted. **If the result of the analysis of the sample B shows the presence of one or more of the substances detected in the sample A, the sale will also be automatically resolved.**

11 - Should the buyer decide to return the lot to the vendor according to the above conditions, the vendor must:

- a) pay to ARQANA, upon presentation of an invoice, any cost or expense born by ARQANA as a result of the blood test and analysis, together with the relevant commissions which would have been payable by vendors and buyers alike if the sale had not been cancelled.
- b) indemnify ARQANA against any cost or expense that may be caused by its decision and would be supported by ARQANA (legal fees etc.)

12 – Subject to the rules of section 11 above, the purchaser shall pay to ARQANA, upon presentation of an invoice, all costs relating to the blood test and analysis.

13 - All notifications relating to conditions 1 - 12 above must be made in writing and sent by post or email to the vendor or the purchaser at the address mentioned on the sale's form, or on the purchaser docket, or at their main office or regular home address. Such notifications shall be considered to have been issued on the day of its reception by the addressee.

#### **Article 6 ter - Piroplasmosis**

The procedure and conditions described below only apply to the lot and do not affect in any way the conditions regarding immediate payment of all purchases.

A lot designates a foal, a yearling, a 2 Year-Old, a horse in training, a mare or filly in or out of training, a broodmare or a stallion.

1 – Unless the information that it is positive for piroplasmosis without qualification has been published and announced from the rostrum, any lot shall be returnable to the vendor in the case when the blood sample taken from this lot, on the purchaser's request, on the sales grounds or their annexes, no later than the day after the sale, by the veterinarian appointed by ARQANA and tested by a registered laboratory using the Elisa + IFAT protocols and the PCR protocol, reveals the positivity and/or seropositivity of Theileria Equi and/or Babesia Caballi according to the conditions and levels specified by OIE.

2 – Any blood sample shall be taken according to the following conditions:

- a) The purchaser must irrevocably instruct ARQANA to take a blood sample on the said lot, and to have it tested for the positivity and/or seropositivity of Equine Piroplasmosis.
- b) The blood test instruction must be given in writing, on the day of the sale, by the purchaser to ARQANA, which will appoint a veterinarian to take the sample, no later than the day after the sale, on the sales grounds or their annexes. ARQANA shall only accept instructions that are given according to this procedure.
- c) The purchaser commits to paying all charges incurred by taking and testing the blood sample.

3 – The results of the analysis of the blood sample for the said lot will be communicated with the greatest confidentiality.

4 – The decision will then be notified to the vendor and purchaser, and ARQANA shall not be held liable for any loss or expenses caused to any party as a result of this decision.

5 – In the situation when a purchaser would have exported a lot out of the E.U. or to the United Kingdom before ARQANA had been informed of the result of the blood sample taken on the said lot, the purchaser shall be obliged to take custody of the horse and pay the entire purchase price for the lot, including when the results have revealed that the lot is positive and/or seropositive to Equine Piroplasmosis.

6 – In all other cases, when the purchaser decides to return the lot to the vendor, such decision must be notified to ARQANA by a notice in writing either by post or email, within seven days from the date of ARQANA informing the purchaser of the result of the blood test. The decision must be notified in writing to ARQANA's headquarters and will only be considered by ARQANA when it has expressly accepted it.

#### **Article 7 - Miscellaneous obligations for vendors.**

The seller agrees to only offer for sale horses whose ownership is undisputed.

The horses offered for sale shall arrive the day before the sale, according to the availability of the boxes, equipped with a compulsory head collar and lead rope to allow buyers to inspect them. **The head collar shall become the buyer's property.** Furthermore, they shall be fitted with a bit or chifney, failing which they shall be excluded from the sale.

No vendor shall be entitled to bring a horse showing symptoms of infectious disease (fever, nasal discharge, shivers, etc.). Vendors shall ensure that a stable hand in their pay is present and remains under their responsibility for up to three horses presented. An extra member of staff shall be supplied by them for each extra three horses.

**The vendor shall expressly be present** or represented at the time his/her horses are auctioned in order to make any decisions that may be required, in particular in the event of an irresponsible bid.

### **Article 8 - Liability in respect of damages caused by the animal or to the animal.**

Until their sale, i.e. until the transaction has been pronounced, all horses or lots to be sold shall remain the vendor's property and ARQANA may not be held liable for any accident, disease or damage sustained by the animals or caused by them to third parties either inside or outside the premises. Fire risks, losses and damages shall also fall under the full responsibility of vendors.

Each potential purchaser shall proceed to the consultation of the veterinary file and if the need arises, carry out complementary veterinary tests, under his/her responsibility, within the protocol established by the Association of Equine Veterinarians. In case of accident caused by a horse or injury to a horse examined by the potential purchaser or by his/her veterinarian, the latter shall be solely responsible and bear all the direct or indirect consequences. Vendors and purchasers commit themselves not to hold ARQANA responsible in any circumstances.

Loading and unloading operations as well as transport to and from the sales premises and all similar operations shall be carried out for the account of the vendor and at his/her own costs and risks. Moreover, ARQANA reserves the right, still under the vendor's responsibility, to move a lot out of the sales premises, notably to Deauville-La Touques or Clairefontaine racecourse stables.

Immediately after the sale, the buyer shall substitute for the vendor as regards all responsibilities.

Should ARQANA agrees to its employees performing on behalf of the owner (vendor or buyer) loading, unloading or shipping operations such acceptance shall not be constitutive of any change to the above conditions. Furthermore, buyers and vendors shall always retain the freedom to proceed to loading or unloading themselves.

### **Article 9 - Unreserved sale.**

As the sale is voluntary, the vendor or his agent shall retain the right to buy back the horse he/she has offered, should he/she consider the bids not high enough, under the condition that the buy-back declaration be made by the vendor him/herself or via an agent holding due power of attorney in writing. Such declaration shall be made **to the auctioneer as soon as the horse is bought back** and mentioned in the official sale's report. The vendor shall then bear the buy-back commission, the amount of which is indicated on the entry form.

### **Article 10 - Dissolution of Partnerships.**

When a sale is required to dissolve a Partnership between co-owners, **no reserve** shall be accepted on the total value of the horse. On the other hand, any of the co-owners may bid on his/her own account for the whole horse and have it knocked down to him/her. In such case, buyer's commission shall apply exclusively to the shares that did not belong to him/her and buy-back commission shall apply to the part which originally belonged to him/her. In the situation when a co-owner buys out his/her partner(s), ARQANA shall be released from its payment guarantee payment to the partner selling. The latter shall be paid by ARQANA as soon as the partner buying has settled payment for his/her purchase.

### **Article 11 - Vendor's Payment.**

ARQANA guarantees payment to the vendor for each horse sold, with half due 30 days after the end of the sale, and the remainder 60 days after the sale.

Such guarantee shall expire in the situation when the vendor has outstanding settlements towards ARQANA.

It shall not apply either in the case of an irresponsible bid or towards a vendor who explicitly approved a successful bidder despite ARQANA's request to re-offer the horse on the basis of an irresponsible bid. In such cases, the vendor shall only be paid after full payment has been received by ARQANA.

All actions in respect of: repossession or cancellation of the sale taken by the buyer, dispute between vendor and buyer, order sought by a third party on the amounts due to the vendor, shall render the guarantee of payment null and void.

Furthermore, in such cases, payment shall be made in the hands of the vendor up to the amount available, upon receipt of the funds by the buyer.

In the case of a sale to dissolve a partnership ARQANA shall not guarantee payment to the vendor if one partner buys out another. ARQANA shall pay the partner selling as soon as it has received payment from the partner buying. Furthermore, ARQANA reserves the right to offset receivables and debts in respect of the same customer at the time of the auction.

A vendor who is liable for VAT shall have sole responsibility for the statutory declarations and payment of VAT to the relevant tax authorities.

### **Article 12 - "Folle Enchère opposable au vendeur" (Irresponsible bid).**

In the 10 days following the sale, ARQANA may inform the vendor of the purchaser's default or incapacity to provide sufficient credit guarantees. After having served final notice without result, with the agreement of the vendor, the horse may then be re-offered at the earliest opportunity either by ARQANA or another sales company. The vendor shall not be founded to claim the difference in price from ARQANA.

The defaulting purchaser shall then be obliged to pay the difference between the original sale price and that of the resale and will not be entitled to any surplus amount, such surplus belonging to the vendor. Should the vendor not wish for the horse to be re-offered, and having notified ARQANA by registered post, the sale shall be automatically

cancelled and the horse shall be returned to the vendor, without prejudice to damages and interests owed by the defaulting buyer to the vendor.

Beyond the 10-day period following the sale, ARQANA shall accept responsibility to guarantee payment to the vendor according to the conditions in Article 11. From the 11<sup>th</sup> day, ARQANA subrogated by its payment guarantee to the vendor's rights and obligations, shall become the legal owner of the horse and dispose of all rights regarding said property, notably; retention of title; legal proceedings against a defaulting purchaser; re-offering the horse and claiming the difference in price between the original sale and resale, any surplus belonging to ARQANA.

### **Article 13 - Payment by the buyer - Collection of documents.**

Payment is due immediately for all sales at public auction Only the vendor shall be entitled, after the auction, to authorise the successful bidder, in writing, to pay in accordance with terms and conditions specified in the written agreement. In such case, ARQANA shall pay the vendor only upon receipt of the buyer's payment.

Any bidder shall be considered to be bidding for him/herself and the successful bidder, whose name shall be announced in the records, shall be personally responsible for his/her purchase. When the successful bidder declares to be acting on behalf of a third party, he/she must produce a written power of attorney explicitly stating that the successful bidder is together with the third party jointly responsible for the full amount of the purchase.

**The successful bidder whose name shall be mentioned in the official sales report, shall be personally responsible for his/her purchase in the event of the principal's defaulting.**

In the event the successful bidder does not hold explicit power to act, ARQANA may consider as joint-debtor whomsoever appears to be, in one way or another, the tacit principal of the successful bidder.

No reduction, irrespective of the reason, may be effected on the invoices issued by ARQANA. The buyers or their agents shall therefore pay these invoices in full.

All payments shall be made to ARQANA either by giro transfer, cheque or postal order (as no payment in cash is accepted). Payment for the lots exported abroad shall be made through Office des Changes (Exchange Services) by currency transfer and to the order of ARQANA.

Only after payment for their purchases and, when appropriate, after signing the document for the transfer of liability shall the buyers obtain the release notes and documents regarding their purchases either from the sales office or upon request to ARQANA.

Payment shall include the hammer price increased by the applicable commissions.

Such commissions, as well as the price, shall be payable immediately **before the handing over of the documents**, failing which, a sale on the basis of irresponsible bid shall be proceeded with.

**No complaint**, even in the case of a redhibitory vice, **shall be admissible if the buyer has not paid the total amount of his/her purchase.**

In the absence of payment, ARQANA shall inform the buyer in writing that he/she has eight days to settle the purchase; that after this final delay, without any further notice, interest at the rate of 0.75% a month excluding tax shall be charged retroactively from the first day of the sale on the total amount of the invoice; beyond a six-month delay, the interest rate shall be brought up to 1% per month excluding tax.

ARQANA reserves the right to pass unpaid invoices on to its lawyers with a view to taking legal action to recover outstanding debts.

Any cost or expense incurred by ARQANA for the recovery of a debt shall be the responsibility of and paid for by the debtor or his/her mandate; such costs shall in any case be no less than 10% of the amount to be recovered.

In case of redhibitory vice or dispute, the funds shall be withheld at ARQANA (see article 11).

### **Article 14 - Clause of ownership.**

ARQANA, subrogated by sole virtue of the implementation of the payment guarantee to the rights and obligations of the vendor, reserves the right to retain ownership of the horses delivered until full payment of the price and relevant commissions has been made. In that respect, the submission of drafts or any other instruments creating an obligation to pay shall not constitute a payment in the sense of this provision.

The buyer undertakes to abstain to dispose of the horse through sale, mortgage, lien, loan or any other encumbrance until full payment has been made. Any agent undertakes to inform his/her principal of the existence of this clause.

In the event of a seizure or any other intervention on the part of a third party in respect of the horse as well as in the event of winding up, court administration or liquidation of assets, the buyer shall inform ARQANA immediately. This ownership clause notwithstanding, the buyer shall be liable for all risks in case of death, accident or disease sustained by the horse. He/she shall bear all costs regarding the upkeep of the horse sold from the date of the auction. In the absence of payment of the price and relevant commissions, the horse may be seized wherever it is, notably on the premises of a public or private trainer, if ARQANA sees fit and without any formality. The resulting amount shall be deducted from the auction price in principal and commissions, the initial buyer remaining liable for the remainder of his/her bids and not being founded to any claims on the potential surplus. He/she also remains liable for the payment of any interests and damages with relation to the sale.

All costs and expenses incurred by ARQANA for the recovery of its debt remain at the expense of the debtor, who accepts them.

The sale itself shall be cancelled automatically and no legal action shall be required to that effect. A simple injunction issued by the President of the relevant Court shall suffice to claim ownership of the unpaid animals.

#### **Article 15 - Legal Address.**

ARQANA has the right to ask a foreign buyer to designate an address in France, care of either his/her trainer or agent or another representative, in the interests of both parties and to facilitate the exchange of information and documents.

#### **Article 16 - Release notes.**

No horse either sold or unsold shall leave the premises without a release note. The note shall be collected from the sales office. Prior to collecting their horses, buyers shall report to ARQANA's office to pay the amount of their purchases or specify the terms of payment so that they can be issued with the release note required for the horses' collection.

Unless an explicit opposition on the part of the vendor is lodged with ARQANA within half an hour following the sale, the latter shall release the lot sold at the request of the buyer or his/her agent. This however shall not entail any responsibility on the part of ARQANA.

**The horses shall have left the sales premises the day following their presentation at 12:00pm at the latest. Beyond that date, upkeep costs (31€ per day excluding tax) shall be charged.**

#### **Article 17 - Costs for the vendor's account.**

These costs are outlined on the entry form for each sale. **Buy backs must be notified on the day of sale, failing which vendors will be charged the usual commissions.** The vendor shall be liable for any additional tax or due imposed by the government or local district over or above what is currently applicable.

Any invoices sent to the vendor are due for immediate payment. In the absence of payment, ARQANA shall issue a formal notice to pay within 8 days. Beyond this date, interest of 0.75% a month excluding tax will be added to the vendor's account from the date of the reminder.

#### **Article 18 - Costs for the buyer's account.**

**Buyer's commission: 6%. All horses are sold with VAT added on.**

**VAT: (Calculation basis = price + buyer's commission).**

- 10% on mares in foal, fillies out of training and sold as breeding prospects, stallions and stallion shares.
- 20% on all other horses including those of racing age, yearlings and foals.

Some horses may however be sold without VAT (non-taxable vendors). This information will be announced from the rostrum during the presentation of the concerned lot number. (VAT shall only be applied on the 6% buyer's commission).

#### **The calculation of VAT distinguishes 5 cases:**

1. The buyer is French and pays VAT in France: VAT applies to the total sale price (VAT may be reclaimed by the buyer).
2. The buyer pays VAT in an E.U. member country other than France and supplies his/her E.U. identification number, and the horse is delivered in an E.U. country: exemption from VAT (production of documentary evidence of delivery is compulsory).
3. The buyer pays VAT in an E.U. member country other than France and supplies his/her E.U. identification number, and the horse stays in France: VAT applies to the total sale price (VAT may be reclaimed from tax services in France).
4. The buyer is not registered for VAT in France or in another E.U. member country: VAT applies to the total sale price.
5. The horse is exported from the E.U.: exemption of VAT on presentation of customs document confirming export (original copy of Single Administrative Document N°3) and mentioning ARQANA as the exporter.

**ARQANA accepts no responsibility as regards the judicial or tax consequences resulting from a false declaration made by the buyer.**

#### **Horses sold under the provisions of temporary importation regulations give rise to four cases:**

1. The buyer is registered for VAT in an E.U. member country other than France and provides his/her VAT number, and the horse is exported from France to another E.U. member country: exemption from VAT on presentation of a document confirming arrival in E.U. country.
2. The buyer is registered for VAT in an E.U. member country other than France and provides his/her VAT number and the horse remains in France: VAT charged.
3. The buyer is not an E.U. resident and the horse stays in France: VAT charged.
4. The horse is exported immediately: exemption from VAT on the condition that the document of temporary import is cleared by the buyer with the Customs Administration.

**ARQANA accepts no responsibility as regards the judicial or tax consequences resulting from a false declaration made by the buyer.**

#### **Article 19 - Private sale of horses entered but not presented.**

The vendor undertakes not to propose or sell any horse whose entry has been accepted by ARQANA. For any horse which would not pass through the ring but would be sold privately during the two months preceding the sale for which it had been entered or the month following, even if the private sale is not completed on the sales ground, the vendor shall be liable to pay €800 excluding tax, €5,000 excluding tax for the Arc Sale, as well as 10% of the average price realised at the session for which the horse was entered. ARQANA does not guarantee payment for sales made in these conditions.

#### **Article 20 - Entries.**

Vendors and buyers shall comply with the rules of France Galop as regards the entries and forfeits of all horses offered for sale.

#### **Article 21 - Horses entered in another catalogue.**

ARQANA reserves the right to refuse the representation of a horse also entered in another sale catalogue. In such case, a lump sum of €800 excluding tax, €5,000 excluding tax for the Arc Sale, together with the amount of the entry fee shall become payable.

#### **Article 22 - Refusal to present.**

ARQANA reserves the right to refuse to present horses on the day of the sale, notably whenever their conformation or condition is considered insufficient or when they are showing signs of infectious disease.

#### **Article 23 - Horses born abroad and 'assimilated' to horses born and raised in France.**

The information shown on some pedigrees indicating that a horse was born abroad but is 'assimilated' to a horse born and raised in France, gives right to Owners' and Breeders' Premiums and are **provided under the vendor's responsibility (see section 86 of the French Rules of Racing)**.

#### **Article 24 - Cancellation of a sale.**

In case of cancellation of the sale for any reason, the vendor shall be held liable to reimburse the buyer for the full purchase price and purchaser's commission as well as all expenses incurred by the buyer on account of the horse while in France until time of cancellation of the sale.

In the event of export of the horse, the costs incurred in transport of the horse outside France, upkeep and return transport to France shall be borne by the buyer.

In any case, no action may be taken against ARQANA, which cannot be held responsible.

It is expressly understood that the buyer has no right to make any claim except one based on redhibitory vices as soon as the purchased horse starts in a race.

#### **Article 25 - Jurisdiction.**

All dispute regarding the interpretation or the performance of these conditions shall be referred to the commercial court of Lisieux.