

**TATTERSALLS (Ireland) LIMITED**  
**(Hereinafter called "TATTERSALLS (Ire)")**  
**2017 Conditions of Sale (Updated April 2017)**

**1. PARTIES**

- 1.1. The Purchaser shall be the highest bidder acceptable to the Auctioneer subject to the right reserved by TATTERSALLS (Ire) to fix a minimum selling price at all or any sales and subject to any reserve price.
- 1.2. The Vendor shall be the person or persons stated in TATTERSALLS (Ire) sales entry form to be the owner or owners of the Lot.

**2. CONDUCT OF SALE**

- 2.1. Tattersalls (Ire) shall have absolute discretion to accept or refuse an entry and in the event of Tattersalls (Ire) deciding to refuse an entry, Tattersalls (Ire) shall be under no obligation to provide any explanation for such refusal.
- 2.2. All Lots offered for sale will be subject to a reserve price which shall be either the minimum selling price or any higher reserve price in respect of which TATTERSALLS (Ire) have received written notification from the Vendor prior to the time at which the Lot is put up for auction.
- 2.3. As provided for by Law a seller of a Lot OR any one person on his/her behalf may bid for that Lot at the auction. The seller shall mean the Vendor or, if different, the owner. Where however a Lot is stated to be "Partnership Property" any partner, syndicate member, co-owner or other person interested therein may bid on his/her own behalf either personally or through an agent.
- 2.4. The Auctioneer is the sole arbiter as to the existence or otherwise of any dispute during and/or in connection with the conduct of the sale and if any such dispute arises the Lot so disputed shall be immediately put up again and re-sold.
- 2.5. The Auctioneer reserves the right without giving any reason therefore to reject any or all bids. In the case where a Lot has been knocked down to a bidder that has not made payment arrangements with TATTERSALLS (Ire) prior to bidding TATTERSALLS (Ire) may at their absolute discretion deem the sale to be cancelled and immediately reoffer the Lot on behalf of the Vendor.
- 2.6. TATTERSALLS (Ire) reserve the right to withdraw any Lot before or during any Sale without giving any reason therefore.
- 2.7. It is the Vendor's duty to ensure that written notification of any reserve price greater than the minimum selling price is received by TATTERSALLS (Ire) prior to the time at which the Lot is put up for auction.
- 2.8. Any reference to the word 'day' or 'days' in these Conditions of Sale means a calendar day including Saturdays, Sundays and public holidays.

**3. COMMISSIONS PURCHASER PREMIUMS AND FEES**

- 3.1. An entry fee is payable to TATTERSALLS (Ire) in respect of each lot entered and catalogued.
- 3.2. Commission is payable to TATTERSALLS (Ire) by the Vendor:
  - (a) At the rate of 1.5% of the price of each Lot sold by auction at TATTERSALLS (Ire) Sales or sold otherwise than by auction where TATTERSALLS (Ire) is a party to the sale or
  - (b) At the rate of 7.5% of the price of each Lot sold otherwise than by auction where TATTERSALLS (Ire) is not a party to the sale, between the date of publication of the catalogue for the Sale in which the Lot was entered and 28 days after the last day of that Sale, provided that TATTERSALLS (Ire) reserve the right to substitute a fair price for any sale price notified to it for the purpose of this sub-condition or to determine a fair price when no sale price is notified to it, or
  - (c) At the rate of 5% of the price of each Lot bought in at auction at TATTERSALLS (Ire) Sales provided also that where a Lot is bought-in 100% by the Vendor and;

- (i) TATTERSALLS (Ire) receive written notification to that effect by the end of selling on the day of the buy-in and
- (ii) The Vendor instructs TATTERSALLS (Ire) to publish the Lot as bought-in, then the rate of commission is reduced to 2.5%.

Full commission is to be paid by the Vendor to TATTERSALLS (Ire) on demand in respect of any Lot returnable or returned to the Vendor subject to a minimum administration fee of €100.

- 3.3. An Auction Fee is payable to TATTERSALLS (Ire) by the Vendor at the rate of 2.5% of any reserve price of any unsold Lot. However where the reserve price is €20,000 or less no fee will be charged.
- 3.4. In addition to the entry fee a withdrawal fee of 50% of the entry fee is payable to TATTERSALLS (Ire) by the Vendor in respect of any Lot which is entered and catalogued for a Sale and which is withdrawn prior to the time it is due to be sold in the Sale unless a Veterinary Certificate of unfitness to the satisfaction of TATTERSALLS (Ire) is produced or unless commission is payable under sub-condition 3.2(b).
- 3.5. A Purchaser Premium is payable by the Purchaser of each Lot at the rate of 6% of the price of each Lot sold.
- 3.6. Commissions, Purchaser Premiums and Fees are subject to VAT or equivalent where applicable and TATTERSALLS (Ire) reserve the right to enforce these fees as described above.

#### **4. PAYMENT BY PURCHASERS**

- 4.1. The Purchaser of each Lot shall:
  - (a) Immediately after the purchase of a Lot;
    - (i) sign the form of Purchase Confirmation supplied by TATTERSALLS (Ire)
    - (ii) give his/her name, address and proof of identity to TATTERSALLS (Ire) if so required, and
    - (iii) pay the full amount of the purchase price, the Purchaser Premium, the Veterinary Fee payable under Conditions 9.1(b) where applicable, and the charge payable under Condition 22.7 where applicable, together with VAT by cash or acceptable banker's draft to TATTERSALLS (Ire).
  - (b) take away at his/her own expense every Lot purchased by him, the day following the sale of the Lot.
- 4.2. If the Purchaser shall fail to comply with any of the conditions set out in Condition 4.1.(a), above, TATTERSALLS (Ire) may retain possession of and resell the Lot and any progeny born after the Sale to a Lot described as "believed in foal" (hereafter "its Progeny") either immediately or otherwise by public or private sale and the deficiency if any attending such resale shall be made good by the defaulting Purchaser on demand by TATTERSALLS (Ire).
- 4.3. If the Purchaser shall fail to comply with any of the conditions set out in Condition 4.1. above then, save where TATTERSALLS (Ire) shall have exercised its right under Condition 4.2. above or Condition 5.5., TATTERSALLS (Ire) shall be entitled to sue the Purchaser for the full amount of the purchase price and the other amounts as set out in Condition 4.1.(a)(iii). As between TATTERSALLS (Ire) and the Vendor TATTERSALLS (Ire) shall be under no duty to sue and nothing which they do or do not do shall affect the right of the Vendor to enforce any right he/she may have against the Purchaser.
- 4.4. Unless there is in force a Purchaser's Authorisation accepted in writing by TATTERSALLS (Ire) the highest bidder in the ring and any principal for whom he/she may be acting shall be jointly and severally liable under the contract of sale and under these Conditions of Sale.

#### **5. TITLE AND POSSESSION**

- 5.1. TATTERSALLS (Ire) may at its absolute discretion permit the Purchaser to take away a Lot notwithstanding that the Purchaser has not complied with the obligation

immediately to pay the Purchase Price pursuant to Condition 4.1.(a)(iii). If TATTERSALLS (Ire) so permits the Purchaser to take away a Lot it does so as a matter of grace and the Purchaser shall remain liable to pay the Purchase Price as aforesaid.

- 5.2. The property in a Lot and its Progeny (if any) shall not pass to the Purchaser or any principal for whom he/she is acting until the Purchase Price has been paid in full together with any interest due thereon pursuant to these Conditions. The Lot and its Progeny (if any) shall be at the Purchaser's risk in all respects from the fall of the hammer. Until the Purchase Price of a Lot has been paid in full together with any interest due thereon pursuant to these Conditions, the Purchaser or any principal for whom he/she is acting shall not whether acting by himself/herself, his/her servants, agents or otherwise howsoever enter, or cause or permit the said Lot to be entered for or to run in or otherwise participate in a race recognised by any Racing Authority unless TATTERSALLS (Ire) prior written consent has been obtained.
- 5.3. At any time until property in a Lot and its Progeny (if any) has passed to the Purchaser or any principal for whom he/she is acting the Purchaser and/or his/her principal shall forthwith, on demand by TATTERSALLS (Ire) (a) deliver up possession of the Lot and its Progeny (if any) to TATTERSALLS (Ire) or (b) inform TATTERSALLS (Ire) of the name and address of any third party in possession of the Lot and its Progeny (if any) and irrevocably instruct that third party to hold the Lot and its Progeny (if any) to the exclusive order of TATTERSALLS (Ire) and provide written evidence to TATTERSALLS (Ire) satisfaction that such instruction has been given. Upon a demand being made by TATTERSALLS (Ire) under this sub-condition, any licence which the Purchaser and/or his/her principal may have to sell the Lot and/or its Progeny shall forthwith determine.
- 5.4. If the Purchaser and/or his/her principal fail to comply with a demand for delivery up of a Lot and its Progeny (if any) made under Condition 5.3., TATTERSALLS (Ire) may enter upon any premises owned, occupied or controlled by the Purchaser and/or his/her principal where the Lot and/or its Progeny are situated to repossess the Lot and its Progeny (if any) at any time.
- 5.5. At any time after making a demand pursuant to Condition 5.3. above TATTERSALLS (Ire) may resell any Lot and its Progeny (if any) and such sale may be held immediately or otherwise by public or private sale.

## **6. PURCHASER'S LIABILITY AFTER RESALE**

- 6.1. (a) Subject to paragraph (c) below, where TATTERSALLS (Ire) resells a Lot and/or its Progeny pursuant to a power to resell it under any provision of these Conditions, the Purchaser shall be liable to pay the difference between (i) the unpaid balance of the Purchase Price together with interest due thereon pursuant to these conditions up to the date of resale and (ii) the price agreed on the resale (if lower) after deduction of any expenses incurred in the sale. If a higher price is achieved on the resale, TATTERSALLS (Ire) shall be entitled to keep the full amount so achieved.  
(b) TATTERSALLS (Ire) shall be entitled to sue in respect of that liability as soon as the contract for resale is made (whether or not payment has been made or is yet due under that contract).  
(c) If the purchaser under the contract of resale defaults, the Purchaser shall remain liable for (i) the unpaid balance of the Purchase Price together with interest due thereon pursuant to these Conditions less (ii) such sum, if any, as is paid under the contract of resale.
- 6.2. The Purchaser shall also be liable to pay TATTERSALLS (Ire) any expense (including legal costs) incurred in recovering any Lot and/or its Progeny (if any) pursuant to these Conditions and any expense incurred for a reasonable period thereafter in keeping, training, transporting and/or insuring the Lot and/or its Progeny and/or engaging any veterinarian, farrier or other person for the purpose of treating the Lot and/or its Progeny.

- 6.3. The Purchaser shall be liable to pay interest on all sums due under this Condition at the rate provided for in these Conditions.
- 6.4. TATTERSALLS (Ire) shall be entitled to sue for any sum due under this Condition. As between TATTERSALLS (Ire) and the Vendor TATTERSALLS (Ire) shall be under no duty to sue and nothing which it does or does not do shall affect the right of the Vendor to enforce any right he/she may have against the Purchaser.

## **7. RESPONSIBILITY FOR HORSES**

- 7.1. Each Lot shall be at the Vendor's risk from the time of arrival for the period the Lot shall be at TATTERSALLS (Ire) premises or outside standing (hereinafter collectively called "the Premises"), unless such Lot shall have been sold, in which case such Lot shall be at the Purchaser's risk in all respects from the fall of the hammer OR If sold privately, from the time of sale.
- 7.2. TATTERSALLS (Ire) has a general right to move a lot between different parts of the premises and TATTERSALLS (Ire) shall incur no liability in respect of or in connection with any loss of or harm sustained by a Lot (including death or injury) at any time whilst on the Premises or in transit between different parts of the premises.
- 7.3. TATTERSALLS (Ire) shall not be liable for any loss or damage caused by any Lot whether by disease, accident or otherwise whilst the said Lot is on the Premises or in transit between different parts of the premises save that nothing in this sub condition shall be taken as excluding or restricting or as attempting to exclude or restrict TATTERSALLS (Ire) liability for death or personal injury resulting from negligence of TATTERSALLS (Ire) its servants or agents.
- 7.4. TATTERSALLS (Ire) reserve the right to examine any Lot and/or isolate any Lot and/or refuse any Lot entry to or require the removal of any Lot from "the Premises" where in TATTERSALLS (Ire) discretion any such Lot presents or appears to present a danger to persons, property or other bloodstock. TATTERSALLS (Ire) shall incur no liability in the event of TATTERSALLS (Ire) exercising its rights under this sub-condition.
- 7.5. No Lot shall be removed from the Premises without a written order from TATTERSALLS (Ire). For the avoidance of doubt, removal of a lot from the Premises to any outside standing by TATTERSALLS (Ire) staff shall not constitute removal from the Premises for the purpose of these conditions of sale.

## **8. VENDORS**

- 8.1. Subject to Condition 8.2. below the Vendor shall be entitled to receive the proceeds of sale of each Lot sold (less any commission and fees due) from not before the 35th day following the last day of each Sale provided that:
- (a) TATTERSALLS (Ire) shall have received the full amount of the purchase price or released the Lot from the Premises and
  - (b) TATTERSALLS (Ire) shall not have been notified that a dispute has arisen in respect of or in connection with payment for the Lot and/or the proceeds of sale thereof whether under these Conditions of Sale or otherwise howsoever and
  - (c) TATTERSALLS (Ire) shall not have granted an extension of time for lodgement of a Veterinary Certificate pursuant to Condition 11.

The Vendor expressly acknowledges that TATTERSALLS (Ire) shall incur absolutely no liability in the event of TATTERSALLS (Ire) withholding payment pursuant to this Condition. Furthermore, the Vendor expressly acknowledges that, notwithstanding the provisions of Condition 7, TATTERSALLS (Ire) is entitled to release a Lot from its premises without first having obtained payment therefore.

- 8.2. (a) Where a Vendor is indebted to TATTERSALLS (Ire), the proceeds of sale of each Lot sold (less any commission and fees due) may be credited against the Vendor's outstanding account. Any credit balance remaining on the account (after

the debt to TATTERSALLS (Ire) has been discharged) shall then be paid by TATTERSALLS (Ire) to the Vendor in accordance with this Condition.

8.2. (b) Where a Vendor is indebted to Tattersalls Limited, the parent company of TATTERSALLS (Ire), (hereinafter called "TATTERSALLS UK" ), the proceeds of sale of each Lot sold (less any commission and fees due) at any TATTERSALLS (Ire) Sales may be credited against the Vendor's outstanding TATTERSALLS UK account without the necessity of any endorsement or authorisation from the Vendor. Any credit balance remaining in the Vendor's TATTERSALLS (Ire) account (after the debt to TATTERSALLS UK has been discharged) shall then be paid by TATTERSALLS (Ire) to the Vendor in accordance with this Condition. Where there is a dispute in connection with the amount owing to TATTERSALLS UK, TATTERSALLS (Ire) are entitled to withhold the monies the subject of the dispute and shall account for the said monies when the dispute has been resolved either by agreement or, failing agreement, court proceedings.

8.3. In any case where TATTERSALLS (Ire) shall have received the purchase monies from the Purchaser but shall have been notified of a dispute within the meaning of Condition 8.1.(b) they will account for the said monies when the said dispute shall have been resolved either by agreement or, failing agreement, by court proceedings.

8.4. Release of a Lot by a Vendor or his/her Agent without a written order from TATTERSALLS (Ire) shall not be deemed release by TATTERSALLS (Ire) within the meaning of this Condition.

8.5. Settlement will only be made against a written application by or on behalf of the Vendor which has been accepted by TATTERSALLS (Ire).

8.6. TATTERSALLS (Ire) shall be under no obligation to place the proceeds of sale on deposit pending payment out by them.

8.7. All payments are made and/or sent at the risk of the Vendor and, if different, the payee.

8.8. Notwithstanding the passing of risk to the Purchaser pursuant to Condition 7, the Vendor shall retain title to the Lot until the full purchase price has been paid to TATTERSALLS (Ire). Where pursuant to this Condition TATTERSALLS (Ire) have paid to the Vendor or credited their account with the net proceeds of sale of a Lot, then title of this Lot will automatically vest in TATTERSALLS (Ire). The Vendor shall, if so required by TATTERSALLS (Ire), assign to them by way of legal assignment (or by any other mode of assignment required by TATTERSALLS (Ire)) all and any of his/her rights against the Purchaser arising out of the contract of sale of the Lot and to the extent that property in the Lot has been retained by the Vendor, that property. Save as provided aforesaid the Vendor shall not assign any rights or obligations under his/her agreement with TATTERSALLS (Ire).

8.9. Where the Purchaser is disputing his/her obligation to pay for the Lot the Vendor shall, save where TATTERSALLS (Ire) have exercised their right under Condition 8.8. above, if so required by TATTERSALLS (Ire), repay to TATTERSALLS (Ire) on demand any payment made by TATTERSALLS (Ire) to the Vendor in respect of the net proceeds of sale of the Lot.

8.10. Where the Purchaser is disputing his/her obligation to pay for a Lot the Vendor shall, if so required by TATTERSALLS (Ire), promptly provide and use best endeavours to procure that its servants and agents promptly provide to TATTERSALLS (Ire) and its advisers such full co-operation, documentation and assistance as TATTERSALLS (Ire) may request in order to investigate the subject matter of the dispute.

8.11. Where there has been any change in the ownership of a Lot entered for sale with TATTERSALLS (Ire) between the date of the sales entry form and the time at which the Lot is due to be put up for auction the Vendor shall forthwith notify TATTERSALLS (Ire) of this fact in writing and of the amount of the sale price and use his/her best endeavours to ensure that the new owner(s) forthwith notify TATTERSALLS (Ire) whether it is his/her wish to proceed with a sale of the Lot at the auction for which it is entered and, if so, to execute and deliver to TATTERSALLS (Ire) a properly completed sales entry form.

8.12. The Vendor shall indemnify TATTERSALLS (Ire) in respect of any loss suffered or costs, disbursements or expenses incurred bona fide by TATTERSALLS (Ire) by reason of bringing or defending any proceedings (including but not limited to any adverse costs awarded against TATTERSALLS (Ire)) or otherwise howsoever which arise whether directly or indirectly from any act or omission by the Vendor in connection with the sale of a Lot whether or not such act or omission be a breach of his/her contract with TATTERSALLS (Ire).

## **9. SALE WITH VETERINARY CERTIFICATE**

9.1.(a) Vendors of Lots offered for sale "With Veterinary Certificate" must have obtained Certificate of Veterinary Examination of a Horse for Sale at Auction in Ireland ("Vendors Veterinary Certificate") within 14 days prior to the auction at which the Lots are offered for sale.

(b) Prior to the Sale the Vendor must present the Lot together with the Vendors Veterinary Certificate for re-examination by a Veterinary Surgeon or Surgeons appointed by TATTERSALLS (Ire) as required by TATTERSALLS (Ire). The Veterinary Fee for such re-examination shall be payable by the Purchaser.

(c) The Vendors Veterinary Certificate together with the results of the re-examination by the Veterinary Surgeon or Surgeons appointed by TATTERSALLS (Ire) will be available for inspection by prospective Purchasers at the offices of TATTERSALLS (Ire) on the day of the sale.

(d) The findings of the Vendors Veterinary Certificate together with the results of the re-examination will be the subject of an announcement from the Auctioneers Rostrum.

9.2. Prospective purchasers may, subject to Condition 14, 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. Subject to Condition 9.1(a), a Lot offered for sale "with Veterinary Certificate" is not returnable in respect of any matter covered by that certificate.

9.4. In the event that a lot is sold as it stands, the purchaser shall not rely upon any physical description of the lot contained in the catalogue but shall rely entirely upon the purchaser's own examination and judgement in respect of the lot. In the event of a dispute arising, the purchaser shall be entitled to rely upon the resolution procedures under Condition 12 as applicable save that the purchaser cannot complain of matters which would have been revealed by a veterinary examination if the lot had been sold subject to a Veterinary Certificate.

## **10. DESCRIPTION AND HEALTH**

Where certificates, notices in writing and/or any other documents are required to be received by TATTERSALLS (Ire) under these Conditions of Sale, that requirement can only be satisfied by delivering them to TATTERSALLS (Ire) at their offices.

10.1. Each Lot must be registered with a Stud Book Authority approved by the International Stud Book Committee, and if not so registered is returnable in accordance with Condition 11 hereof.

10.2. A Stallion is a male horse at stud. A Gelding is a male horse which has been castrated (i.e. had both testicles removed in their entirety). A Colt is a male horse up to and including the age of four years, provided that he is not properly describable as a Stallion or a Gelding. A Horse is a male horse five years of age or over not properly describable as a Stallion or a Gelding. The description Stallion or Colt or Horse does not exclude a rig or crypt-orchid. (The term rig or crypt-orchid applied to male horses in which one or both testes do not descend into the scrotum from the abdomen at the usual time). If a male horse is not properly described he is returnable in accordance with this Condition and with Condition 11 hereof. Provided always that the purchaser may only return the Lot if:

- (a) TATTERSALLS (Ire) have received notice in writing from the Purchaser before 5 p.m. on the 7th day after the day on which the Lot was sold that he/she requires an examination to determine whether the Lot has been mis-described under this Condition.
  - (b) The Lot has been returned to TATTERSALLS (Ire) premises or any other premises designated by TATTERSALLS (Ire) by the Purchaser by 5.00 p.m. on the 14th day after the day on which the Lot was sold
  - (c) TATTERSALLS (Ire) have received a certificate in writing from a Veterinary Surgeon of the Purchaser's choice before 5 p.m. on the 14th day after the day on which the Lot was sold stating that the Lot has been mis-described under this Condition.
  - (d) TATTERSALLS (Ire) have received notice in writing from the Purchaser contending that the Lot has been mis-described under this Condition before 5 p.m. on the 14th day after the day on which the Lot was sold.
- 10.3. A Filly should only be so described up to and including the age of four years. Thereafter she must be described as a Mare. If at any time before reaching five years she is covered she must subsequently at all times be described as a Mare. If a Filly or a Mare is not properly described she is returnable in accordance with Condition 11 hereof. For all Mares there must be given particulars of all coverings. If a Mare has subsequent to any such coverings slipped foal the fact must be stated and if not stated or the particulars of coverings are not given as required the Mare is returnable in accordance with Condition 11 hereof.
- 10.4. Any Mare described as "believed in foal" must have a Covering Certificate "lodged with TATTERSALLS (Ire)". A Covering Certificate is only to be regarded as having been "lodged with TATTERSALLS (Ire)" where, prior to the time of sale of the Mare, either the Covering Certificate has been deposited at TATTERSALLS (Ire) offices or TATTERSALLS (Ire) have been notified in writing by a Stud Book Authority approved by the International Stud Book Committee that the covering has been registered with it and is recorded electronically. Where, in respect of a Mare described as "believed in foal" a Covering Certificate has not been "lodged with TATTERSALLS (Ire)" as aforesaid, such Mare is returnable in accordance with this Condition and Condition 11 hereof unless:
- (a) an announcement is made from the Rostrum that the Covering Certificate has not been lodged, and
  - (b) the Covering Certificate or written notification as aforesaid from a Stud Book Authority approved by the International Stud Book Committee is received by TATTERSALLS (Ire) by 5pm on the 14th day after the day on which the Lot was sold. Provided always that the Purchaser may only return the Mare if, by 5pm on the 21st day after the day on which the Mare was sold, he/she has:-
    - (a) Returned the Mare to TATTERSALLS (Ire) at Fairyhouse or any other premises designated by TATTERSALLS (Ire), and
    - (b) TATTERSALLS (Ire) have received a notice in writing from the Purchaser of his/her contention that a Covering Certificate for the Mare had not been "lodged with TATTERSALLS (Ire)" within the meaning of this sub-condition.
- 10.5. Any Mare described as "believed in foal" is returnable in accordance with this Condition and Condition 11 hereof if found to be barren at the time of sale, provided always that the Purchaser may only return the Mare if:
- (a) TATTERSALLS (Ire) have received a certificate in writing from a Veterinary Surgeon of the Purchaser's choice before 5.00pm on the 2<sup>nd</sup> day after the day on which the Mare was sold alleging the Mare to be barren at the time of sale.
  - (b) The Mare has not been removed from the Premises.
- 10.6. Any Lot
- (a) which is a Wind sucker (i.e. gulps or swallows air whether in association with grasping fixed objects with incisor teeth or not) is returnable in accordance with

Condition 11 unless described without qualification as a Wind sucker, Crib biter or Cribber in which event the Lot is not returnable.

- (b) which has been operated on for the correction of Wind sucking as defined above, including Crib biting, is returnable in accordance with Condition 11 unless so described.
- (c) Crib biters and Cribbers are not returnable unless the Crib biting is associated with Wind sucking in which case the Lot is returnable as a Wind sucker unless it is described without qualification as a Wind sucker, Crib biter or Cribber.

#### 10.7. Any Lot

- (a) Which 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
- (b) Which is an habitual Boxwalker (i.e. habitually walks either backwards and forwards or round and round the box repeatedly in an aimless manner), is returnable in accordance with this Condition and Condition 11 hereof unless so described. Provided always that the Purchaser may only return the Lot if:
  - (a) TATTERSALLS (Ire) have received a notice in writing from the Purchaser before 5.00 pm on the 7th day after the day on which the Lot was sold that he requires an examination for either an habitual Weaver or an habitual Boxwalker.
  - (b) He/she has returned the Lot to TATTERSALLS (Ire) or any other premises designated by TATTERSALLS (Ire) by 5.00 p.m. on the 14th day after the day on which the Lot was sold.
  - (c) TATTERSALLS (Ire) have received a certificate in writing from a Veterinary Surgeon of the Purchaser's choice before 5.00 p.m. on the 14th day after the day on which the Lot was sold stating that as a result of observation between 7 and 14 days after the day on which the Lot was sold, it is believed that the Lot is an habitual Weaver or an habitual Boxwalker.
  - (d) TATTERSALLS (Ire) have received a notice in writing from the Purchaser of his/her contention that the Lot is an habitual Weaver or an habitual Boxwalker before 5.00 p.m. on the 14th day after the day on which the Lot was sold.

#### 10.8. Any Lot described as a Horse in Training:

- (a) Which is a Whistler and/or Roarer as hereinafter defined is returnable in accordance with Condition 11 hereof unless so described or described as being 'heard to make a noise' without qualification. In the case of a Horse in Training a Whistler and/or Roarer is a Lot which can be heard to make a characteristic abnormal inspiratory sound when actively exercised (ridden where possible) and which has Laryngeal Hemiplegia (Recurrent Laryngeal Neuropathy) when examined with the endoscope.
- (b) Which has been tubed or otherwise operated upon for the correction of Whistling and/or Roaring, is returnable in accordance with Condition 11 hereof unless so described and, if so described, and if so described the Lot is not returnable under either sub-condition 10.8 (a) or (b). 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.

#### 10.9. Any Lot described as a Yearling (other than one sold in a 'January/February Sale' to which this sub-condition does not apply) and any Lot described as a Two year Old in a 'January/February Sale',

- (a) Which is a Whistler and/or a Roarer as hereinafter defined, or
- (b) Which 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) Which makes an abnormal inspiratory sound when actively exercised and which has (i) rostral displacement of the palatopharyngeal arch (fourth branchial arch

defect), or (ii) chondroma or severe arytenoids chondritis or (iii) cleft palate or (iv) epiglottic entrapment or (v) sub-epiglottic cyst(s) is returnable in accordance with this Condition and Condition 11 hereof unless so described and if so described or described as being 'heard to make a noise' without qualification the Lot is not returnable under either sub paragraph (a), (b) or (c). In the case of a Lot to which this sub-condition applies, a Whistler and/or Roarer is a Lot which can be heard to make a characteristic abnormal inspiratory sound when actively exercised and which has Laryngeal Hemiplegia (Recurrent Laryngeal Neuropathy) when examined with the endoscope. Provided always that the Purchaser may only return the Lot if:

- (a) It has not been removed from the Premises.
- (b) TATTERSALLS (Ire) have received a notice in writing from the Purchaser within 24 hours from the Fall of the Hammer that he/she requires an examination
- (c) TATTERSALLS (Ire) have received a certificate in writing from a Veterinary Surgeon of the Purchaser's choice before 5.00 p.m. on the fourth day after the day on which the Lot was sold alleging the Lot to be a Whistler and/or Roarer or to have been tubed or otherwise operated upon for the correction of Whistling and/or Roaring or to be suffering from one of the conditions set out in sub-condition 10.9 (c).
- (d) TATTERSALLS (Ire) have received a notice in writing from the Purchaser of his/her contention that the Lot is a Whistler and/or Roarer or has been tubed or otherwise operated upon for the correction of Whistling and/or Roaring is suffering from one of the conditions set out in sub-condition 10.9 (c) before 5.00 p.m. on the fourth day after the day on which the Lot was sold.

10.10. Any Lot described as "unbroken" at the time of sale is returnable in accordance with this Condition and Condition 11 hereof if at the time of sale it meets the criteria of being broken in and ridden prior to sale. Any Lot described otherwise than as "unbroken" at the time of sale is not returnable in accordance with this Condition. Provided always that the Purchaser may only return the Lot if:

- (a) TATTERSALLS (Ire) have received a notice in writing from the Purchaser before 5:00pm on the 3rd day after the day on which the Lot was sold that he requires an examination to determine whether the Lot has been broken in and ridden. If a Purchaser can show to the satisfaction of TATTERSALLS (Ire) that exceptional and unavoidable circumstances have made compliance with this sub-condition impossible, then TATTERSALLS (Ire) reserve the right at their sole discretion to grant an extension to the notice period not exceeding 3 additional days.
- (b) He/She makes the Lot immediately available for examination by TATTERSALLS (Ire) or a person nominated by TATTERSALLS (Ire) at Fairyhouse or any other premises designated by TATTERSALLS (Ire).
- (c) TATTERSALLS (Ire) are satisfied as a result of the examination that the Lot should have more properly been described as broken in at the time of sale.

For the avoidance of doubt, a Lot described as driven in long reins is not returnable in accordance with this Condition.

10.11. Any Lot described as untried at the time of sale is returnable in accordance with this Condition and Condition 11 hereof if at the time of sale it meets the criteria of being tried. Any Lot described otherwise than as untried at the time of sale is not returnable in accordance with this Condition.

Provided always that the Purchaser may only return the Lot if:

- (a) TATTERSALLS (Ire) have received a notice in writing from the Purchaser before 5:00pm on the 3rd day after the day on which the Lot was sold that he/she requires an examination to determine whether the Lot has been tried. If a Purchaser can show to the satisfaction of TATTERSALLS (Ire) that exceptional and unavoidable circumstances have made compliance with this sub-condition impossible, then TATTERSALLS (Ire) reserve the right at their sole discretion to grant an extension to the notice period not exceeding 3 additional days.

- (b) He/she makes the Lot immediately available for examination by TATTERSALLS (Ire) or a person nominated by TATTERSALLS (Ire) at Fairyhouse or any other premises designated by TATTERSALLS (Ire).
  - (c) TATTERSALLS (Ire) have received a certificate in writing from a professional rider before 5.00pm on the 3rd day after the day on which the Lot was sold that in his/her opinion the Lot has been tried.
  - (d) TATTERSALLS (Ire) are satisfied as a result of the examination that the Lot should have more properly been described as tried at the time of sale. For the avoidance of doubt, a Lot shall be deemed to be tried if it;
    - (i) has run in any race;
    - (ii) has been catalogued in any previous Breeze-Up Sale;
    - (iii) has appeared in any published Trainer's or Permit Holder's List;
    - (iv) has been deemed to have been galloped "upsides" prior to sale.
- 10.12. Any Lot which has run at a Meeting not recognised by a Racing Authority or is restricted from racing by any Racing Authority and not so described is returnable in accordance with Condition 11 hereof.
- 10.13. Save as aforesaid any material mis-description in the catalogue details of any Lot or in any information with regard thereto announced from the Auctioneer's Rostrum shall render the Lot returnable in accordance with Condition 11 hereof unless, in either case, corrected by announcement from the Auctioneer's Rostrum.

#### **11. LOTS RETURNED TO TATTERSALLS (IRE)**

If the Purchaser of any Lot contends that it is returnable to the Vendor under Condition 10 the Lot must be returned to TATTERSALLS (Ire) with a notice in writing of such contention and in the case of Lots returned to TATTERSALLS (Ire) under Conditions 10.3, 10.6 and 10.8 with a veterinary certificate specifying the nature of the complaint and in the case of Lots returned to TATTERSALLS (Ire) under Conditions 10.2., 10.4., 10.5., 10.7., 10.9., 10.10. and 10.11. as prescribed therein. Where certificates, notices in writing and/or any other documents are required to be received by TATTERSALLS (Ire) under these Conditions of Sale, that requirement can only be satisfied by delivering them to TATTERSALLS (Ire) offices. Lots returned to TATTERSALLS (Ire) under Condition 10 must be returned to TATTERSALLS (Ire) and the requisite notices/certificates be received by TATTERSALLS (Ire) before 5.00 p.m. on the seventh day after the day on which the Lot was sold except for those returned to TATTERSALLS (Ire) under Conditions 10.2., 10.4., 10.5., 10.7., 10.9., 10.10. and 10.11. which must be returned to TATTERSALLS (Ire) as prescribed therein. However in the case of a return of a Lot to TATTERSALLS (Ire) under Conditions 10.8. or 10.9. where TATTERSALLS (Ire) receive a written notice from the Purchaser's Veterinary Surgeon stating that he/she is unable to give a certificate within the prescribed time on grounds connected with the health or characteristics of the Lot then TATTERSALLS (Ire) may decide to extend the prescribed time for lodgement of the certificate and, for this purpose, may have regard to the opinion of any Veterinary Surgeon or Surgeons appointed by them. Failure to comply with the provisions of this Condition and Condition 10 shall be an absolute bar to any claim that the Lot is returnable and the Purchaser shall be bound to keep and pay the full amount of the purchase price for the Lot. Where the Purchaser has returned the Lot to TATTERSALLS (Ire) in accordance with this Condition and Condition 10 hereof and the Vendor does not accept that the Lot is returnable to him TATTERSALLS (Ire) will decide the dispute under Condition 12.

#### **12. RESOLUTION PROCEDURES**

Any dispute arising under Conditions 10 and 11 shall be decided by TATTERSALLS (Ire) in such manner and either without evidence or after hearing evidence of such nature and taken in such manner as TATTERSALLS (Ire) shall think fit and TATTERSALLS (Ire) decision shall be final and binding on both Vendor and Purchaser and TATTERSALLS (Ire) shall not be responsible for any loss or expense incurred by any party to such dispute. The decision shall be given not later than 21 days from the date of the return of

the Lot to TATTERSALLS (Ire) unless TATTERSALLS (Ire) are advised by the Veterinary Surgeon or Surgeons appointed by them that a longer period or a different method of testing be necessary due to the health or characteristics of the Lot.

In determining whether any Lot is returnable as an habitual Weaver or an habitual Boxwalker under Condition 10.7. TATTERSALLS (Ire) may have regard to the opinion of any Veterinary Surgeon or Surgeons appointed by them whose opinion shall be given after allowing the Lot to settle in its environment and have adequate exercise.

In determining whether any Lot is returnable as a Whistler and/or Roarer under Conditions 10.8. and 10.9. respectively TATTERSALLS (Ire) may have regard to the opinion of any Veterinary Surgeon or Surgeons appointed by them whose opinion shall be given after actively exercising the Lot (a Horse in Training shall be ridden where possible) to hear whether it makes the required abnormal inspiratory sound and examining the Lot with the endoscope to determine if Laryngeal Hemiplegia (Recurrent Laryngeal Neuropathy) or one of the conditions stated in Condition 10.9. (c) is present. A Lot shall only be returnable under Conditions 10.8. (a) or 10.9. (a) or (b) if (i) both the required abnormal inspiratory sound and either Laryngeal Hemiplegia (Recurrent Laryngeal Neuropathy) or (for lots to which condition 10.9. applies) one of the conditions stated in Condition 10.9. (c) is present or (ii) in the opinion of said Veterinary Surgeon or Surgeons the Lot cannot be actively exercised (a Lot must be capable of being lunged in both directions) to their satisfaction. The Purchaser expressly acknowledges that the condition revealed by post sale examination with an endoscope for which return to the Vendor is allowed is ONLY as set forth in Conditions 10.8. and 10.9. and further acknowledges that there are other conditions which may be revealed by such examination which may affect the desirability of purchasing the Lot but which are NOT grounds for return to the Vendor.

In determining whether a Lot is returnable as broken in or tried under Condition 10.10. and 10.11. respectively, TATTERSALLS (Ire) may have regard to the opinion of an independent professional/international rider whose opinion shall be given after examining the Lot and observing the Lot in action backed and unbacked.

The party against whom a decision is given shall:

- (a) Pay to TATTERSALLS (Ire) all costs and expenses (including insurance) incurred by them or in connection with the taking of evidence or making the decision
- (b) Indemnify TATTERSALLS (Ire) against all costs claims demands actions and expenses arising out of or in connection with such decisions.

The Lot shall be at the Purchaser's risk in all respects until the decision that it is returnable to the Vendor is given by TATTERSALLS (Ire). If it be decided that the Lot is returnable to the Vendor, the Vendor shall pay to TATTERSALLS (Ire) on behalf of the Purchaser the cost of returning the Lot to TATTERSALLS (Ire) or any other premises designated by TATTERSALLS (Ire) under these Conditions of Sale, and the amount of any payment under this Condition shall be fixed by TATTERSALLS (Ire) whose decision shall be final and binding on all parties to the dispute. Save as provided for in Conditions 22, 23 and 24 no Lot is returnable to the Vendor in any circumstances other than in accordance with this Condition and Conditions 10 and 11 hereof. Unless so returnable the Purchaser shall be bound to keep and pay the full amount of the purchase price for the Lot.

### **13. RESPONSIBILITY**

The Vendor is responsible for the accuracy of all information concerning the pedigree description and health of a Lot. No statement certificate forecast or expression of opinion in respect thereof is or is to be deemed to be in any circumstances a representation, undertaking, warranty by TATTERSALLS (Ire) or condition of any contract with TATTERSALLS (Ire) and TATTERSALLS (Ire) shall in no circumstances become liable to any person in respect thereof. TATTERSALLS (Ire) reserve the right to require that any notice regarding the pedigree description and health of a Lot must be in writing and lodged at TATTERSALLS (Ire) Office prior to the sale of the Lot. TATTERSALLS (Ire) do

not warrant that any Lot is eligible for participation in any scheme or race notwithstanding any announcement or notice in a catalogue or otherwise.

#### **14-18 PURCHASERS**

14. Purchasers are advised to inspect each Lot prior to purchase. As noted in Condition 9.2. Purchasers must ensure that the Vendor's approval is obtained before a veterinary inspection is made. All Lots are sold subject to TATTERSALLS (Ire)' Conditions of Sale and are subject to any announcements that may be made from time to time from the Auctioneer's Rostrum and therefore it is the responsibility of all bidders to be in attendance at the commencement of the sale of a Lot to hear any such announcements. Information appearing on notice and electronic boards in the Main Sales Office and the Sale Ring and anywhere else on TATTERSALLS (Ire) "Premises" (as defined in Condition 7.1.) is for guidance purposes only and no liability shall attach to TATTERSALLS (Ire) or the Vendor for any error in or omission from the information so provided. Where a Lot is described as being sold with race entries, the responsibility thereof passes to the Purchaser at Fall of Hammer.

15. There is no term implied in any sale that any Lot is of satisfactory quality, merchantable quality or is fit for training or any particular purpose except as indicated on a Vendor's Veterinary Certificate and the results of a re-examination under Condition 9. Any term, condition or warranty that might be incorporated into or apply to these Conditions of Sale is excluded to the maximum extent permissible by applicable law.

16.

16.1. The Vendor as defined in Condition 1.2 shall remain at all times the Vendor for the purpose of and within the meaning of these Conditions whether or not he/she was in fact the owner at the time of entry or if he/she was, notwithstanding any transfer of ownership prior to the fall of the hammer. Such transfer shall not by itself operate as the withdrawal or revocation of any authority to sell.

16.2. Where TATTERSALLS (Ire) in their Sales catalogue make a statement as to the ownership of a Lot they do so in good faith and in accordance with the information provided in the sales entry form but they do not thereby make nor do they otherwise make any representation whatsoever, whether 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.

16.3. Without prejudice to the generality of the foregoing the fact that TATTERSALLS (Ire) makes no such representation means that it shall not be a term of any contract between TATTERSALLS (Ire) and a Purchaser (whether condition, warranty or otherwise) that the Lot is at the time of sale or was at the time of entry or at any other time the property of any particular person or persons and that if a purchaser purchases a Lot relying on any representation as to the ownership of the Lot at the time of entry, time of sale or at any other time he/she does so, as far as his/her contract with TATTERSALLS (Ire) is concerned, entirely at his/her own risk and such representation and/or reliance shall not prevent TATTERSALLS (Ire) being entitled to recover the full amount of the purchase price immediately in accordance with Condition 4.

16.4. Consistently with and without prejudice to the foregoing in any case where TATTERSALLS (Ire) are able to procure that title in the Lot passes to the Purchaser the fact, if it be the case, that as at the time of sale they did not have authority to sell shall not prevent TATTERSALLS (Ire) being entitled to recover the full amount of the purchase price immediately in accordance with Condition 4.

17. An allegation by a Purchaser that a particular person, whether or not the owner of the Lot for the time being has taken part whether directly or indirectly in the bidding shall not prevent TATTERSALLS (Ire) being entitled to recover the full amount of the purchase price immediately in accordance with Condition 4.

18. Further and without prejudice to any other provision of these Conditions TATTERSALLS (Ire) make no representation whatsoever, whether express or implied, about, with regard to or in connection with any Lot. A Purchaser must make his/her own enquiries and exercise his/her own judgement as to a Lot and its value and if a purchaser purchases any Lot relying on any representation whether by or on behalf of the Vendor or otherwise howsoever he/she does so, as far as his contract with

TATTERSALLS (Ire) is concerned, entirely at his/her own risk and such representation and/or reliance shall not prevent TATTERSALLS (Ire) being entitled to recover the full amount of the purchase price immediately in accordance with Condition 4.

#### **19. DISPUTES BETWEEN VENDOR AND PURCHASER**

Where, as between Vendor and Purchaser a dispute has arisen out of or in connection with the sale of any Lot TATTERSALLS (Ire) shall not be liable to either party in connection therewith and no such dispute shall prevent TATTERSALLS (Ire) being entitled to recover the full amount of the purchase price immediately in pursuance of Condition 4.

#### **20. WITHDRAWAL**

TATTERSALLS (Ire) shall not be liable to any person for any loss alleged to have been suffered as the result of the withdrawal of a Lot from any Sale for any reason.

#### **21. DELETED**

#### **22. DRUGS**

This Condition applies to all yearlings and older Lots and to Horses in and out of Training.

22.1. A Lot shall be returnable to the Vendor in accordance with this Condition where TATTERSALLS (Ire) decide in its absolute discretion that a blood/urine sample taken from the said Lot in accordance with this Condition contains the specified level of any of the following proscribed drugs namely,

- (a) non steroidal anti-inflammatory drugs or their metabolites,
- (b) exogenous anabolic steroids, ('proscribed drugs').

A list showing the specified level for each of the proscribed drugs is available upon request made to Tattersalls (Ire) and Purchasers and Vendors are advised to check the current specified levels before purchasing or entering a Lot for sale.

22.2. A sample will be taken from a Lot in accordance with this Condition where:

- (i) the Purchaser, in compliance with Condition 22.3. hereof, irrevocably instructs TATTERSALLS (Ire) to take a sample from the said Lot for the purposes of this Condition and to have the sample tested for the presence of proscribed drugs, and
- (ii) The Vendor complies with Condition 22.4 (a) hereof and
- (iii) a member of a veterinary team appointed by TATTERSALLS (Ire) takes a sample from the said Lot while it is in a holding area designated by TATTERSALLS (Ire).

22.3. Where a Purchaser wishes to give an instruction under Condition 22.2. (i) hereof he/she shall do so immediately after the purchase of a Lot and by signing to this effect on the form of Purchase Confirmation supplied by TATTERSALLS (Ire) who will not accept instructions given in any other way.

22.4. Where an instruction is given by the Purchaser under Condition 22.3. hereof:

- (a) The Vendor shall deliver the said Lot directly from the sales ring to the designated holding area in accordance with TATTERSALLS (Ire) directions and for this purpose the Purchaser agrees that notwithstanding that risk in the said Lot has passed to him/her he/she is not entitled to take possession or control of the said Lot until after the Lot is released from the designated holding area. Where TATTERSALLS (Ire) decide that the Vendor has failed to deliver the said Lot as aforesaid the said Lot shall be returnable to the Vendor in accordance with this Condition.

(b) If after one hour from the delivery of the Lot to the designated area a sample has not been taken from the said Lot notwithstanding that the said veterinary team have used such reasonable endeavours as are commensurate with the circumstances including the number of Lots from which samples are to be taken and their behaviour, the said Lot shall be returnable to the Vendor in accordance with this Condition.

- 22.5. TATTERSALLS (Ire) shall exercise its absolute discretion in making a decision under this Condition. TATTERSALLS (Ire) decision shall be given by notice to both the Vendor and the Purchaser as soon as reasonably possible after the Sale of the said Lot, shall be final and shall be binding on both the Vendor and the Purchaser and TATTERSALLS (Ire) shall not be responsible for any loss or expense incurred by any party arising out of its decision. The Purchaser expressly acknowledges that a Lot is only returnable to the Vendor under this condition if it is decided by TATTERSALLS (Ire) that the sample taken from the Lot contains the specified level of any of the proscribed drugs and further acknowledges that the presence of any of the proscribed drugs in the sample at a level below the specified level is not a ground for return of a Lot to the Vendor. Unless so returnable the Purchaser shall be bound to keep and pay the full amount of the purchase price for the Lot.
- 22.6. (a) Where the Purchaser elects to return the lot to the Vendor under this Condition such election must be made by returning the Lot to TATTERSALLS (Ire) at Fairyhouse with a notice in writing of such an election within 7 days of the date on which notice of TATTERSALLS (Ire) decision is given to the Purchaser. Failure to comply with this sub-section shall be an absolute bar to any claim that the Purchaser is entitled to return the lot under this Condition and the Purchaser shall be bound to keep the Lot and pay the full amount of the purchase price therefore. Any transport, keep or other costs incurred by the Purchaser in connection with the Lot shall be for the Purchaser's account in any event.
- (b) Upon TATTERSALLS (Ire) having acknowledged receipt of the Purchaser's notice in accordance with Condition 22.6 (a) hereof TATTERSALLS (Ire) shall give notice to both Vendor and Purchaser that the Contract of Sale in respect of the said Lot has been determined.
- (c) The Lot shall be at the Purchaser's risk in all respects from the fall of the Hammer until notice is given by TATTERSALLS (Ire) in accordance with Condition 22.6. (b) hereof. For the avoidance of doubt, in any case where TATTERSALLS (Ire) has given such notice the Lot is thereafter at the risk of the Vendor.
- (d) If the Purchaser has elected to return the Lot to the Vendor in accordance with this Condition the Vendor shall:
- (i) Pay to TATTERSALLS (Ire) on invoice a sum equivalent to the commission that would be payable under these Conditions of Sale had the contract of sale not been determined by the Purchaser.
  - (ii) Pay to TATTERSALLS (Ire) on invoice their charge for taking and testing the sample and in making and giving its decision under this Condition.
  - (iii) Indemnify TATTERSALLS (Ire) against all costs claims demands actions and expenses arising out of or in connection with its decision under this Condition.
- 22.7. Save as provided for in Condition 22.6. (d) hereof the Purchaser shall pay to TATTERSALLS (Ire) on invoice their charge for taking and testing the sample and making and giving its decision under this Condition.
- 22.8. For the avoidance of doubt, time runs for the purposes of the Conditions of Sale generally notwithstanding the Purchaser's instruction for a sample to be taken and tested in accordance with this Condition.
- 22.9. (a) Any notice under this Condition shall be in writing and shall be delivered by hand or sent by first-class post or by telex or by fax to the Vendor or to the Purchaser at the address given on the sales entry form or Purchase Confirmation as the case may be, or at their normal address of residence or business. Such notice shall be given or deemed given on the date of delivery or the second day after posting or on the day of transmission as the case may be.
- (b) For the purposes of Condition 22.6. (a) such notice in writing shall be delivered to TATTERSALLS (Ire) at Fairyhouse and shall not be treated as given unless acknowledged in writing by TATTERSALLS (Ire).

### **23. PIROPLASMOSIS**

This Condition applies to any Lot sold at TATTERSALLS (Ire) sales other than foals or yearlings in a January or February Sale.

23.1 Unless described without qualification as 'positive or doubtful' for Piroplasmosis, a Lot shall be returnable to the Vendor in accordance with this Condition where TATTERSALLS decides in its absolute discretion that a blood sample taken from the said Lot in accordance with this Condition and tested in accordance with the Böse test for Piroplasmosis under OIE Protocol using a Piro IFAT test ("the Prescribed Test") contains the specified levels of either *Theileria equi* or *Babesia caballi*.

23.2 A list showing the specified levels for *Theileria equi* and *Babesia caballi* is available upon request made to TATTERSALLS (Ire) and Purchasers and Vendors are advised to check the current specified levels before purchasing or entering a Lot for sale.

23.3 A sample will be analysed from a Lot in accordance with this Condition where:

- (a) the Purchaser, in compliance with sub-condition 23.4 hereof, irrevocably instructs TATTERSALLS (Ire) to have a sample tested for the presence of Piroplasmosis, and
- (b) the Vendor complies with sub-condition 23.5 (a) hereof and;
- (c) a member of a veterinary team appointed by TATTERSALLS (Ire) takes a sample from the said Lot while it is in a holding area designated by TATTERSALLS.

23.4 Where a Purchaser wishes to give an instruction under sub-condition 23.3(a) hereof he/she shall do so immediately after the purchase of a Lot and by signing to this effect on the form of Purchase Confirmation supplied by TATTERSALLS (Ire) who will not accept instructions given in any other way.

23.5 Where an instruction is given by the Purchaser under sub-condition 23.4 hereof:

(a) The Vendor shall deliver the said Lot directly from the Sale Ring to the designated holding area in accordance with TATTERSALLS (Ire) directions and for this purpose the Purchaser agrees that notwithstanding that risk in the said Lot has passed to him/her he/she is not entitled to take possession or control of the said Lot until after the Lot is released from the designated holding area. Where TATTERSALLS (Ire) decides that the Vendor has failed to deliver the said Lot as aforesaid the said Lot shall be returnable to the Vendor in accordance with this Condition.

(b) 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 said veterinary team have used such reasonable endeavours as are commensurate with the circumstances including the number of Lots from which samples are to be taken and their behaviour, the said Lot shall be returnable to the Vendor in accordance with this Condition.

23.6 TATTERSALLS (Ire) shall exercise its absolute discretion in making a decision under this Condition. TATTERSALLS (Ire) decision shall be final and binding on both Vendor and Purchaser and TATTERSALLS (Ire) shall not be responsible for any loss or expense incurred by any party arising out of its decision.

23.7 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 TATTERSALLS (Ire) that the sample taken from a Lot and tested using the Prescribed Test contains the specified levels of either *Theileria equi* or *Babesia caballi* and 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. Unless so returnable the Purchaser shall be bound to keep and pay the full amount of the purchase price for the Lot.

23.8 (a) Where the Purchaser elects to return the Lot to the Vendor under this Condition such election must be made by returning the Lot to TATTERSALLS (Ire) at any premises designated by TATTERSALLS (Ire) together with a notice in writing of such election within 7 days of the date on which notice of TATTERSALLS (Ire) decision is given to the Purchaser. Failure to comply with this sub-condition shall be an absolute bar to any claim that the Purchaser is entitled to return the Lot under this Condition and the Purchaser shall be bound to keep the Lot and pay the full amount of the purchase price therefor. Any transport, keep

and other costs incurred by the Purchaser in connection with the Lot shall be for the Purchaser's account in any event.

(b) Upon TATTERSALLS (Ire) having acknowledged receipt of the Purchaser's notice in accordance with sub-condition 23.8(a) hereof TATTERSALLS (Ire) shall give notice to both Vendor and Purchaser that the contract of sale in respect of the said Lot has been determined.

(c) The Lot shall be at the Purchaser's risk in all respects from Fall of Hammer until notice is given by TATTERSALLS (Ire) in accordance with sub-condition 23.8(b) hereof. For the avoidance of doubt, in any case where TATTERSALLS (Ire) has given such notice the Lot is thereafter at the risk of the Vendor.

(d) If the Purchaser has elected to return the Lot to the Vendor in accordance with this Condition the Vendor shall:

(i) pay to TATTERSALLS (Ire) on invoice the commission provided for at Condition 3.2 hereof

(ii) pay to TATTERSALLS (Ire) on invoice its charge for taking and testing the sample and in making and giving its decision under this Condition;

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

23.9 Save as provided for in sub-condition 23.8(d) hereof the Purchaser shall pay to TATTERSALLS (Ire) on invoice its charge for taking and testing the sample and making and giving its decision under this Condition.

23.10 For the avoidance of doubt, time runs for the purposes of the Conditions of Sale generally notwithstanding the Purchaser's instruction for a sample to be taken and tested in accordance with this Condition.

23.11 (a) Any notice under this Condition shall be in writing and shall be delivered by hand or sent by first-class post or by fax to the Vendor or to the Purchaser at the address given on the Sales Entry Form or Purchase Confirmation as the case may be, or at their normal address of residence or business. Such notice shall be given or, deemed given on the date of delivery or the second day after posting or on the day of transmission as the case may be.

(b) For the purposes of sub-condition 23.8(a) such notice in writing shall be delivered to TATTERSALLS (Ire) at its office at Fairyhouse and shall not be treated as given unless acknowledged in writing by TATTERSALLS (Ire).

**24.** No failure or delay on the part of TATTERSALLS (Ire) (whether in connection with this or any previous sale) to exercise any right, power or remedy shall operate as a waiver of it, nor shall any partial exercise preclude further exercise of the same or some other right, power or remedy.

## **25. INTEREST**

TATTERSALLS (Ire) reserve the right to charge interest on unpaid accounts from the date of sale at the rate of 1.50 per cent per month or part thereof on (a) the Purchase Price or any part thereof if unpaid from the date of sale and (b) any other sum due and owing to TATTERSALLS (Ire) under these Conditions of Sale from the date from the liability was incurred or, if different, from the date provided for in these Conditions of Sale. The rate may be varied by notice in writing posted at the office of TATTERSALLS (Ire) during these Sales. Interest will not be charged on accounts cleared within 28 days of the last day of each Sale.

## **26. LAW**

These Conditions of Sale are in all respects to be governed by and to be construed in accordance with the laws of Ireland and the Courts of Ireland shall, unless TATTERSALLS (Ire) elect otherwise, have exclusive jurisdiction to hear and determine any action arising hereunder.

**27. DATA PROTECTION**

Your data is subject to our Data Protection Notice which is incorporated by reference into these Conditions of Sale.