

BRIGHTWELLS AUCTION CONDITIONS OF SALE FOR THE HAY ON WYE SALE (GRASS RING ONLY)

1. ENTRY

- (1) A horse shall be entered for a sale on completion of an entry form by or on behalf of the Seller and upon payment to the Auctioneer of the prescribed entry fee.
- (2) In the event that the Seller wishes to place a reserve on a lot, the amount of the reserve must be specified on the entry form.
- (3) The Seller warrants to the Auctioneer and to the Buyer that on the day of the Sale, the horse when described as vaccinated will have been properly vaccinated and will have no contagious or infectious diseases.

2. COMMISSION

- (1) The Seller will pay to the Auctioneer a commission of 6% of the gross sale price of each Lot plus VAT.
- (2) Commission is payable in full by the Seller to the Auctioneers even if a horse is subsequently returned by the Purchaser to the Seller in accordance with the complaints procedure hereunder or for any other reason.
- (3) In the event that a horse is sold subject to veterinary examination and in the event that a horse is returned by the Buyer in accordance with a veterinary certificate obtained on the day of the Sale, then the Seller shall pay to the Auctioneer a commission of 3% of the gross sale price plus VAT.
- (4) A horse, having been entered for a Sale may be withdrawn prior to the Sale upon a payment of a withdrawal fee of £100 plus VAT in addition to the entry fee.
- (5) The Auctioneers reserve the right to charge a penalty fee of £100 plus VAT on all lots entered in the Sale and not brought forward for Sale. This fee may be waived if the withdrawal is on veterinary grounds and suitable veterinary evidence is provided, or if the Auctioneer is satisfied the reason for the withdrawal was acceptable. All withdrawals must be confirmed by written confirmation of the withdrawal, and this confirmation must be with the Auctioneer 7 days prior to the Sale. Any withdrawal after this time for whatever reason will be charged a £100 plus VAT penalty.

3. CATALOGUE DESCRIPTION

- (1) The Auctioneer accepts no responsibility for the accuracy of any particulars of a lot given in the catalogue. The Seller is solely responsible for any catalogue description of a Lot.
- (2) Upon receipt of a catalogue, the Seller undertakes immediately to check the accuracy of the relevant catalogue description of the lot and to notify the Auctioneer immediately in writing of any correction, amendment or addition that needs to be made to the catalogue description.
- (3) The following words have the following meanings when used in a catalogue description:
 - (i) Unbroken – must be quiet to lead and to halter.
 - (ii) Partly Broken – must be capable of being ridden by a competent rider in an enclosed school.
 - (iii) Green – must be capable of being ridden by a competent rider at slow paces in open country.
 - (iv) Quiet to Ride – must be quiet and easy to manage and ride away, quiet and easily managed at all paces on grass, quiet and mannerly with all traffic on the road.
 - (v) Hunter – must be quiet to ride and quiet with hounds – capable of jumping a Novice Country.
 - (vi) Jumper – must be able to jump a course commensurate with described capability when ridden by competent rider.
 - (vii) Potential - where described as "having potential" for a specific purpose the horse must have the physical capabilities to undertake this purpose or purposes and must be examined as such by the Veterinary Surgeon.
 - (viii) Driving Horses- the same guarantees as apply to riding horses in respect of (ii), (iii) and (iv) above.
 - (ix) Pony under 15 hands – must be easily manageable by a child of average competence and age appropriate to the size of the pony.

(4) The authenticity and accuracy of each entry's passport is the sole responsibility of the vendor. Any inaccuracies that may occur should be dealt with between the vendor and purchaser.

(5) The Auctioneer may amend or add to any catalogue description during the course of a Sale and may declare a Sale to be subject to veterinary examination or not during the course of a Sale, in which event any announcement by the Auctioneer takes precedence over any entry in the catalogue.

4. CONDUCT OF THE SALE

(1) The Auctioneers may at their absolute discretion:-

(a) Refuse to accept any bid or bidder.

(b) Regulate the bidding as the Auctioneer sees fit.

(c) Arrange, consolidate or withdraw any Lot.

(d) Cancel or postpone a Sale on account of bad weather or other supervening causes. In the event that a Sale is cancelled, moved or rearranged the Auctioneer shall not be liable to pay compensation to any Seller, Bidder or any other party.

(2) The Seller reserves the right to bid through the Auctioneer acting as the Seller's agent.

(3) The Buyer shall be the highest bidder. In the event of a dispute between two or more bidders as to which is the Buyer, the Auctioneer shall have the right to declare the Buyer or at the Auctioneers discretion to immediately re-offer the disputed Lot for sale.

(4) The Buyer shall immediately on the fall of the hammer inform the Auctioneer of the Buyers name and address and provide any proof of identity that the Auctioneer may require. Failure in this respect entitles the Auctioneer immediately to offer the Lot for resale and the original Buyer shall be liable to make good any difference in price to the Seller.

(5) Any Buyer bidding as agent for the Principal shall be deemed to have bid on his own behalf as well as on behalf of his Principal and the highest bidder shall be personally liable along with the Principal to the Seller.

5. PAYMENT

(1) The Auctioneer, at the Auctioneer's discretion, may require the Buyer to pay a deposit of 20% of the price of the horse immediately following the sale.

(2) The Buyer shall pay the Auctioneer in full for the price of the horse within 2 hours of the completion of the sale. Payment in this context may include the tender of a cheque in the full amount although the Auctioneer in the Auctioneer's discretion may refuse a cheque in which event the Buyer must tender payment in some other manner.

(3) The Auctioneer shall pay the seller the price of the Lot less Auctioneer's commission and any other outstanding charges and expenses due from the Seller to the Auctioneer within 21 days of the date of the Sale, provided that:

(i) In the Auctioneer's opinion the Buyer is a bona fide purchaser and was capable of making a contract i.e. being sound of mind, not in collusion with the Seller and not under the influence of drugs or drink etc.

(ii) the Auctioneer has been paid in full for the price of the horse by the Buyer, any cheque tendered by or on behalf of the Buyer having cleared; and

(iii) the Buyer has not initiated the Complaints Procedure set out below. In the event that the Buyer has initiated the Complaints Procedure, the Auctioneer shall retain the price of the Lot pending the outcome of the Complaints Procedure.

(4) If the Buyer fails to make a payment in full for the Lot, and in the Auctioneers opinion the Buyer is a bona fide person (3. i) and fails to make payment in full for the Lot or Lots the Auctioneer may, at his absolute discretion, resell the Lot and the Buyer shall be liable for any shortfall in price, and any associated expenses connected with such resale.

6. DELIVERY AND RISK

(1) Horses sold as they stand or without Veterinary Examination instruction from the Buyer, shall be at the risk of the Buyer from the fall of the hammer.

(2) All other horses shall remain at the risk of the Seller until the issue of an acceptable Veterinary Certificate whereupon risk shall pass to the Buyer.

(3) The Seller shall deliver the horse to the place of the Sale and shall provide the horse with adequate fodder and water for one night and shall provide the horse with a

serviceable halter. In the event that the Seller fails to provide the horse with a serviceable halter, the Auctioneer may provide the horse with a halter and charge the Seller for the same.

(4) Title in the horse shall not pass to the Buyer until the Buyer has made payment in full for the horse by means of cleared funds. Until payment in full by means of cleared funds is made, title shall remain with the Seller.

(5) The Buyer shall not be entitled to take delivery of the horse until payment in full for the horse has been made. The Auctioneer may at the Auctioneer's sole discretion allow the Buyer to take delivery of the horse upon the tender by the Buyer or on his behalf of a cheque in the full amount of the price.

(6) The Buyer, subject to payment in full, must take possession of the horse by 5.00pm on the day of the Sale.

(7) In the event that a horse is not sold, the Seller shall take back the horse from the Sale premises by 5.00pm on the day of the Sale.

(8) The Buyer authorises the Seller and the Auctioneer as agent for the Seller to enter upon the Buyer's land to take collection of any horse in respect of which the Buyer has taken delivery but for which the Buyer has not paid in full.

7. RETURNED HORSES

(1) Lots may be returned by the Buyer to the Seller if the Buyer of any Lot sold with a Pedigree establishes that the pedigree is inaccurate.

(2) Lots may be returned by the Buyer to the Seller in accordance with the Complaints Procedure if the Buyer establishes that the description given in the catalogue in respect of a horse is inaccurate.

(3) Lots may be returned by the Buyer to the Seller subject to the Complaints Procedure set out below if the horse:

(i) is a wind-sucker (i.e. swallows air whether in association with grasping fixed objects with incisor teeth or not); a crib-biter is not returnable unless the crib biting is associated with wind sucking, in which case the Lot is returnable as a wind-sucker;

(ii) is a weaver;

(iii) exhibits box walking;

(iv) has been tubed, fired, unnerved or operated upon for unsoundness of any other kind;

(v) a male horse (other than a foal, a yearling before the 1st July of its yearling year) which does not have two testes fully descended to and fully palpable within the scrotum at the time of the Sale is or shall be deemed to be a rig or cryptorchid;

(vi) fails to load on the Sale day in a reasonable and acceptable way in a purpose constructed lorry or trailer;

(vii) has suffered from Sweet Itch;

and if the horse has not been described as such in the catalogue or verbally by the Auctioneer at the time of Sale.

8. VETERINARY PROCEDURE

All horses and ponies are sold subject to veterinary examination unless sold for £300 or less, or otherwise stated. It is emphasised that the facilities are not available to undertake a full veterinary examination on the day of the Sale, but part veterinary examination should take place. This part examination should include examination for warts, sarcoids or sarcoid-like lesions, which can only be complained about on the day of sale. Only lots that are examined by the panel of Veterinary Surgeons appointed by the Auctioneers on the day of the Sale have an extended two working days (including Saturdays) to enable complete veterinary examination. For the Veterinary Procedure please see the sales catalogue.

9. LIABILITY OF THE AUCTIONEER

(1) The Auctioneer acts as agent of the Seller and the Auctioneer gives no warranties of any kind to the Buyer.

(2) The Auctioneer does not accept liability for:

(i) the description or pedigree of the horse given in the catalogue

(ii) the physical condition or performance of the horse sold.

(iii) the payment of the price by the Purchaser.

- (iv) the return of any horse by the Purchaser to the Seller.
- (v) the administration of the Complaints Procedure beyond the appointment of an arbitrator in accordance therewith.

10. COMPLAINTS PROCEDURE

- (1) The Buyer shall notify the Auctioneer if the Buyer claims to be entitled to return a horse to the Seller in accordance with condition 7 or for any other reason orally by 5.00pm on the **second day** following the Sale.
- (2) The Buyer shall follow up this oral notification to the Auctioneer with written notification to the Auctioneer to be received by the Auctioneer within seven days from the date of the Sale. The written notification by the Buyer to the Auctioneer shall set out the grounds upon which the Buyer claims to be entitled to return the horse to the Seller.
- (3) Where appropriate, the Buyer shall submit, along with his written notification, a veterinary certificate confirming any matters in respect of which complaint is made. The failure to submit a veterinary certificate in circumstances where such a certificate is appropriate will mean that the Buyer's complaint will not be further entertained and the Buyer shall pay the price for the horse in full.
- (4) In the event that the Buyer fails to make oral or written notification of his complaint within the above timescales, the Buyer shall not be allowed to return the horse to the Seller but must make payment for the horse in full unless the Buyer can demonstrate to the satisfaction of the Auctioneer that it was not reasonably practicable for the Buyer to discover the complaint, and to notify the Auctioneer of the same, within the above timescales. However, in no circumstances whatsoever, may the above time limits be extended beyond a period of 14 days after the Sale.
- (5) On receipt of a written complaint together, where appropriate, with a veterinary certificate, the Auctioneer shall send a copy of the complaint and the veterinary certificate to the Seller and the Auctioneer shall appoint a suitable person to act as Arbitrator. The task of the Arbitrator will be to examine and determine the complaint. The name of the person appointed by the Auctioneer to act as Arbitrator shall be notified by the Auctioneer to the Seller and to the Buyer. The Auctioneer shall thereafter have no further responsibility in respect of the Complaint Procedure.
- (6) The examination and resolution of the complaint shall be under the control of the Arbitrator and the Seller and Purchaser shall comply with all directions that may be given by the Auctioneer in respect of the complaint.
- (7) The Arbitrator may require, before proceeding to examine and determine the complaint that the Arbitrator's fees and expenses shall be paid in advance. The Seller and the Buyer shall thereupon each pay one-half of the sum stipulated by the Arbitrator.
- (8) The Arbitrator may direct that the horse shall be subject to such trial as he may direct and the Seller and Buyer shall lend their full co-operation to such a trial.
- (9) If either the Seller or the Buyer fail to comply with a direction of the Arbitrator or fail to pay any sum ordered to be paid by the Arbitrator, then the Arbitrator may at his own discretion decide not to proceed with the examination and determination of the complaint and may, if the Seller is in default, order that the horse be returned to the Seller or may, if the Buyer is in default, order that the Buyer pay the full price to the Seller.
- (10) Upon the determination of the complaint, the Arbitrator may at his discretion order that the unsuccessful party pay to the other all the costs and expenses associated with the Complaints Procedure.

11. HARD HATS

Any person riding an animal on the Sale Premises must wear a **hard riding hat** of an approved standard.

12. SPECIAL CONDITIONS OF SALE

The Sale Catalogue may contain additional special conditions of sale which may prevail over the aforementioned.

ADDITIONAL CONDITIONS OF SALE FOR HAY-ON-WYE SALE

- 13. No animal over the age of 20 years will be allowed to be entered.
- 14. No animal under 3 years of age shall be ridden or driven.

15. All foals at foot must be at least 3 weeks of age, and all weaned foals must be at least 4 months of age at the time of Sale and fully weaned.
16. All statements in the catalogue must be on the entire responsibility of the Vendor.
17. No guarantee is implied or given that any mare is barren or in foal. Service dates are given in good faith but are not guaranteed as being in foal. A signed "Service Certificate" shall be provided for any mare or filly described as "covered".
18. Animals described as Colts or Stallions, 4 years and upwards, shall where appropriate have a Society Licence in accordance with their Breed Society Rules. **(Please note- the ages vary with each Breed Society.)** No guarantee is given as to Colt Foals or Yearling Colts.
19. As a condition of the acceptance of their entry, Vendors undertake: (a) Not to sell any animal prior to the date of Sale.
(b) To bring forward their entry to the Sale. They are warned that the Auctioneers reserve the right to refuse future entries from Vendors who without good reason have failed to fulfill their obligation to present all Lots for Sale.
20. Purchasers are warned that without prejudice to the Vendor's duty set out herein before. Horses sold for £300 or less are sold as they stand, all other questions of descriptions and conditions being entirely at the risk of the purchaser.

PLEASE NOTE ALL LOTS SOLD IN THE MARKET RING ARE SOLD OFF THE CONDITIONS OF SALE AND SOLD AS SEEN WITHOUT WARRANTY.

BRIGHTWELLS LTD