

Conditions of Sale

Introduction

DBS draws the attention of all visitors to their Sales to the Conditions of Sale on the following pages.

They cover all aspects of DBS Sales including veterinary examinations that may apply, what may and may not be stated in the catalogue or at the time of sale, what must be declared by the Vendor, the complaints procedure if a Purchaser is unhappy with his purchase, etc.

If you are a **Purchaser**, your special attention is directed to the following conditions:

2.11 Fees and Commission

- 4 Basis of Sale
- 5 Drug Testing
- 9 Purchasers

10.11 Interest

12 Lots Returnable

If you are a **Vendor**, your special attention is directed to the following conditions:

- 2 Vendors
- 2.11 Fees and Commission
- 4 Basis of Sale
- 5 Drug Testing
- 12 Lots Returnable

DBS may alter any Condition at any time. For the avoidance of doubt, the Conditions of Sale in each Sales catalogue take precedence over any previously published in all circumstances.

Please do not hesitate to ask any of the DBS team for clarification or an explanation of any clause.

Conditions of Sale

(Revised and effective from 1 January 2012)

Doncaster Bloodstock Sales Limited (“DBS”) Conditions of Sale apply to all sales conducted by DBS. DBS draw your attention to their Guide for Buyers booklet which is available upon request, the Bloodstock Industry Code of Practice (Appendix 1) as well as the DBS Catalogue Style (Appendix 2) and Vendors Sale Requirements (Appendix 3) printed in the catalogue.

1 Definitions

- 1.1 “Affiliate” means any person that Controls DBS, is Controlled by DBS or is under common Control with DBS.
- 1.2 “Associated Company” in relation to Robert J Goff & Co Plc, a subsidiary of Robert J Goff & Co Plc or a holding company of Robert J Goff & Co Plc or any other subsidiary of that holding company or an Affiliate, but specifically, without limitation of the foregoing, DBS, Goffs Bloodstock Sales Limited and Arqana SAS.

- 1.3 “Control” in relation to any person, the beneficial ownership of any of the issued share capital of, or the legal power to direct or cause the direction of the general management of the person in question or its holding company or parent undertaking.
- 1.4 “Debtor” Any Vendor, Purchaser or New Purchaser (as appropriate) with any liability to DBS.
- 1.5 “The Auctioneers’ Office” means the DBS Office in the Sales Complex at Doncaster.
- 1.6 “Banned Drugs” means Non Steroidal Anti-Inflammatory Drugs or Anabolic Steroids or their metabolites.
- 1.7 “The British Isles” means England, Wales, Scotland and Northern Ireland.
- 1.8 “The DBS Hawick Office” means the Auction Mart Offices in Hawick, Roxburghshire.
- 1.9 “The Lot” is the horse which is to be sold and is described in the DBS catalogue by reference to a Lot number.
- 1.10 “The New Purchaser” is the person to whom the Lot has been transferred after the Sale in accordance with 7.2 below.
- 1.11 “The Owner” is the Registered Owner of the horse recorded on the database maintained by Weatherbys or other Stud Book or Racing Authorities.
- 1.12 “The Panel” is the appointed panel of veterinary surgeons.
- 1.13 “The Purchaser” is the person who places the highest bid which is accepted by the Auctioneer before the fall of the hammer or who purchases the Lot privately following the sale.
- 1.14 “The Sale” means the sale by auction conducted by DBS.
- 1.15 “The Vendor” is the Owner, or the person who enters the horse for sale on behalf of the Owner.
- 1.16 In these Conditions:
- 1.16.1 the singular includes the plural and vice versa;
- 1.16.2 references to persons include bodies corporate, unincorporated associations, governments, states, partnerships and trusts (in each case, whether or not having separate legal personality); and
- 1.16.3 “subsidiary” and “holding company” have the meanings given to them by sections 1159 of the Companies Act 2006.
- 2 Vendors**
- 2.1 All Lots will be subject to the reserve price which shall be either the minimum bid which is set by DBS or any higher reserve price which DBS must have received in writing from the Owner, the Vendor or his agent prior to the Lot being offered.
- 2.2 The Owner and/or Vendor is not

- permitted to sell any Lot once the catalogue has been published.
- 2.3 The details of all Lots contained in the catalogue are provided by the Vendor who is solely responsible for their contents and accuracy. Each entry will follow the DBS Catalogue Style (Appendix 2). DBS accept no liability for catalogue descriptions, pedigrees or performances, which are prepared for them by Weatherbys Bloodstock Services as a service to DBS, who are acting in their capacity as agent for the vendors, and the content or accuracy of any other warranty representation or statement made by the Vendor in relation to any Lot. Neither Weatherbys Bloodstock Services nor DBS accepts liability for any loss resulting from any errors or omissions contained in the catalogue details.
- 2.4(a) Passports and all relevant paperwork (Appendix 3) must be lodged with DBS prior to the Sale. DBS will not offer any Lot unless the correct paperwork, as outlined in the Vendors Sales Requirements, have been lodged in the Auctioneers' Office.
- (b) All Lots born after 1st January 1999 (except non-thoroughbreds) must be microchipped in accordance with HRA regulations. It will be the sole responsibility of the Vendor to ensure that any Lot is correctly microchipped and the Vendor will bear the cost of chipping if any Lot is found not to be correctly microchipped by the conclusion of the Sale.
- 2.5 All lots from yearlings (after 15 August) upwards with the exception of broodmares that have been covered must have up to date vaccinations in accordance with the Vendors Sale Requirements (Appendix 3). Where vaccinations are not up to date, a notice to that effect will be read out at the Sale or the Lot must be withdrawn.
- 2.6 All import/export paperwork must be in order prior to the Sale or the Lot must be withdrawn. It will be the sole responsibility of the Vendor to ensure that any Lot's paperwork is in order and the Vendor will bear the cost of any outstanding paperwork whilst DBS will not pay the sales proceeds to the Vendor until the appropriate documentation has been delivered to the Purchaser.
- 2.7 A Vendor or any one person on his behalf may bid for any Lot owned by such Vendor. Where however a Lot is stated to be "the Property of a Partnership" or "to Dissolve a Partnership" any partner, syndicate member, co-Owner or other person interested may bid on his own behalf either personally or through an agent.
- 2.8 In the case of any Lot where a dispute has arisen between Vendor and Purchaser, or where there are competing claims for payment, DBS may refuse to make payment

to the Vendor pending resolution of the dispute. In exercising this right, DBS will incur no liability to any party, and no interest shall be payable by DBS on any sale proceeds retained.

2.9 In the case where any Lot has been knocked down to a bidder who has made no payment arrangements prior to bidding DBS may impose one of the following measures in their absolute discretion:

- (a) The sale will be deemed to be cancelled and the Lot will immediately be reoffered on behalf of the Vendor.
- (b) DBS will not make payment to the Vendor until the Lot has been paid for in full.

2.10 Upon receipt of a **single written application from the Vendor**, DBS will pay to the Vendor the purchase price of the Lot (less any commission, fees or charges due) on the 35th day following the last day of the Sale subject to 2.6 above, 2.11 and 2.12 below. DBS will be under no obligation to place the sale proceeds on deposit prior to the Vendors application.

2.11 DBS will deduct 0.75% from the sales proceeds of British Vendors as a Sales Levy on behalf of the Thoroughbred Breeders Association, who will be notified of the Vendors name and address unless the Vendor notifies DBS in writing within 28 days of the last day of the Sale that he is unwilling to contribute.

2.12 Fees and Commission

- (a) An entry fee is payable to DBS by the Vendor for each Lot entered and catalogued. The fee is non-refundable upon publication of the catalogue and will be subject to a 5% levy to fund the BHA/TBA Inward Buyers Initiative.
- (b) The Vendor will pay DBS 1.5% commission of the price of each Lot.
- (c) The Purchaser will pay DBS 6% of the price of each Lot.
- (d) The Vendor will pay DBS 7.5% of the price of each Lot bought in at the Sales or sold privately after the catalogue was published or within 14 days after the last day of the Sale.
- (e) When a Lot is bought in 100% by the Vendor and DBS are notified by the conclusion of the sales session in which the Lot was offered the Lot will be published as a "Vendor" sale and the Vendor will pay DBS 2.5% of the sale price.
- (f) There will be a minimum commission for each Lot sold or bought in of £100.
- (g) When a Lot is unsold, the Vendor will pay DBS 2.5% of the reserve price if the reserve exceeds £15,000.
- (h) A withdrawal fee of £300 (£750 for the NH Festival, Breeze-Up, Premier Yearling, St Leger Festival,

St Leger Carnival and Hennessy Sales) will be paid by the Vendor to DBS for any lot which is catalogued and withdrawn prior to the sale unless notification of withdrawal is accompanied by a veterinary certificate to the satisfaction of DBS. If no notice is given to DBS prior to the day of the Sale the withdrawal fee charged will be £400 (£1000 for the NH Festival, Breeze-Up, Premier Yearling, St Leger Festival, St Leger Carnival and Hennessy Sales).

- (i) DBS reserve the right to charge full commission of 7.5% from the Vendor in respect of any cancelled sale.
- (j) All commission and Fees are subject to VAT at the appropriate rate.

3-8 The Sale

3 Bidding

- 3.1 The auction will be conducted in £ Sterling. Subject to the discretion of the auctioneer, no person to advance bids at less than £100 up to £10,000; £500 up to £20,000; £1,000 up to £100,000 and £2,000 thereafter.
- 3.2 DBS is the sole arbiter as to the existence or otherwise of any dispute between two or more bidders or between DBS and any bidder, during and/or in connection with the conduct of the Sale and if any dispute arises the Lot in question shall be immediately reoffered to all

parties subject to the reserve price in accordance with 2.1 above.

4 Basis of Sale

4.1 All Lots are sold as they stand (see 4.1(a) below) unless “Basis of Sale” on the catalogue page includes options 4.1(b) to 4.1(f) listed below. There is no term implied in any sale that any Lot is of satisfactory quality or is suitable for racing or any particular purpose:

- (a) **As They Stand** without a veterinary certificate. If a Lot is to be sold in this way, no veterinary certificate must be displayed prior to or read out at the Sale.
- (b) **Subject to Re-examination** whether with or without a formal veterinary certificate signed by an independent qualified veterinary surgeon (not the Owner, Trainer and/or Vendor). Where a veterinary certificate accompanies the Lot, it must be dated within 28 days of the Sale, lodged in the Auctioneers’ Office and read out by DBS at the Sale. In no circumstances shall the contents of any veterinary certificate constitute a warranty condition or other contractual term, description or representation made by DBS. In both cases, the re-examination procedure in 4.3 will be employed.
- (c) **Subject to Re-Examination of Wind Only.** The re-examination procedure in 4.3 will be employed. For the purpose of this Condition

no other rights of re-examination will apply.

- (d) **With a Pre Sales Veterinary Certificate.** All Lots offered in this way will be examined prior to sale by the Panel and the fee for this examination will be paid by the Purchaser to DBS. The Panel certificate will be read out at the Sale and the Veterinary Certificate will be valid for the date and time of the examination only. No lot shall be permitted to leave the DBS premises between the examination by the Panel and the time of sale. For the purpose of this Condition no other re-examination rights will apply.
- (e) **Subject to Re-Examination of Pregnancy Only.** All Broodmares which have been covered during the preceding season must be so described in the catalogue. The Vendor must lodge with DBS the required certificates as confirmed in the Vendors Sale Requirements (Appendix 3) prior to the Sale. DBS will not offer any Lot for which the correct certification has not been lodged prior to the Sale. The re-examination procedure in 4.3 will be employed. For the purpose of this Condition no other rights of re-examination will apply.
- (f) **With a Breeding Certificate.** Where a breeding certificate signed by an independent veterinary surgeon accompanies the Lot, it must be dated within 28 days of the Sale, lodged in the Auctioneers' Office and read out

by DBS at the Sale. In no circumstances shall the contents of any veterinary certificate constitute a warranty condition or other contractual term, description or representation made by DBS. The re-examination procedure in 4.3 will be employed. A Lot may also be Sold Subject To Re-examination or Subject to Re-Examination of Wind only as per 4.1(b) and (c) above in addition to With a Breeding Certificate.

Immediately following DBS being notified that an examination on behalf of a Purchaser is required, the Vendor must present the Lot to The Panel. In the event of the Vendor not making himself available, the Purchaser may elect to cancel the Sale. In the event of the Lot being taken for such examination by either the Purchaser, DBS or their respective agents it nevertheless remains at the sole risk of the Vendor until the completion of the re-examination, and the party taking the Lot shall not be responsible for the death, injury or any damage caused by the Lot or to the Lot while temporarily under its control.

- 4.2 All foals, and yearlings until 15 August will be sold as they stand (4.1a); all yearlings after 15 August and two year olds in the Breeze-Up Sales will be sold subject to re-examination of wind only (4.1c); all mares in foal will be sold subject to re-examination of pregnancy only (4.1e); two year

olds and upwards (with the exception of broodmares) may be sold using any one of the options in 4.1a – 4.1d

Re-examination Procedure

4.3 Where a re-examination by the Panel is permitted the following procedure will be followed:

- (a) The Purchaser will have the right to request the Lot he has purchased to be re-examined by a member of the Panel subject to (b) and (c) below.
- (b) The request for re-examination must be made by the Purchaser in the Auctioneers' Office within 60 minutes of the Sale of the Lot, the Sale time to be solely determined by DBS. Failure to request a re-examination under this Condition will prevent the Purchaser seeking cancellation of the sale for any conditions in 4.4 below.
- (c) The appropriate re-examination fee shall be paid to DBS by the Purchaser. DBS will issue an authority that re-examination of the Lot can then be carried out by a member of the Panel.
- (d) The decision of the Panel shall be final and binding as between the Vendor and Purchaser.
- (e) DBS in no way accept responsibility for the findings of the Panel carrying out the re-examination.

4.4 The sale may be cancelled at the

discretion of the Purchaser if the Panel find the following conditions under each category:

- (a) Sold subject to re-examination (whether with or without a veterinary certificate) (4.1b) – The Lot fails a full clinical examination by the Panel. The examination will not include any radiological or other specialised techniques. It will not be concerned with the accuracy of any other statement concerning any particular Lot whether contained in the catalogue or in any veterinary certificate, save that it shall take into account any qualification contained in a veterinary certificate produced under the terms of 4.1 (b) above.
- (b) Sold subject to re-examination of wind only (4.1c) –
 - (i) The Lot (unless it is a yearling after 15 August or a two year old in the Breeze-Up as in (ii) below) makes an abnormal inspiratory sound when actively exercised on the lunge.
 - (ii) If a yearling (after 15 August) or two year old in the Breeze-Up should make an abnormal inspiratory sound as referred to in (i) above, the Panel shall then, and only then, examine the Lot by endoscope to determine if the Lot is suffering from significant Laryngeal Hemiplegia (paralysis). There are conditions other than Laryngeal Hemiplegia which may be

revealed by endoscope which are not grounds for cancellation of the sale.

(iii) If the Lot, in the opinion of the Panel, is incapable of being lunged in both directions to their satisfaction. In this case, the Vendor will bear the cost of the examination.

- (c) Sold subject to re-examination of pregnancy only (4.1e) – the mare is found to be not in foal.
- (d) Sold with a breeding certificate (4.1f) - The Lot is found by manual examination to be unfit for breeding purposes in the opinion of the Panel.

5 Drug Testing (Anabolic Steroids and Non-Steroidal Anti-Inflammatory Drugs)

This Condition applies to all Lots from Yearlings (after 15 August) upwards with the exception of Broodmares that have been covered in that year and Stallions.

- 5.1 The sale may be cancelled at the discretion of the Purchaser in accordance with this Condition if a blood sample taken from the Lot is found to contain the Banned Drugs for which the Purchaser requested a test.
- 5.2 Where a drug referred to in 5.1 above is referred to in a certificate signed by an independent qualified veterinary surgeon and read out by DBS at the Sale, this Condition will apply but the Lot shall not be returnable to the

Vendor unless the Purchaser can demonstrate that additional Banned Drugs (other than those certified and read out) were present at the time of the Sale.

- 5.3 A blood sample will be taken from the Lot where the Purchaser instructs DBS to do so immediately after purchase of the Lot by signing to this effect on the DBS Acknowledgement of Purchase Form. Failure to request a drug test in this way will prevent the Purchaser seeking cancellation of the sale due to the presence of Banned Drugs.
- 5.4 When DBS receive an instruction under 5.3 above, the Vendor shall immediately take the Lot to a designated holding area in accordance with DBS instructions. If the Vendor fails to comply with these instructions, the Purchaser may, at his discretion, cancel the sale.
- 5.5 DBS will deliver the sample to the Irish Equine Centre. Pending the result, the Purchaser must not remove the Lot from the British Isles or Eire, and if they do so will be liable, irrespective of the result, to arrange for and pay the costs of transporting the Lot back to the Vendor. The result of the test will be final and binding on both parties and will be communicated by DBS to the parties in accordance with 15 below as soon as practical after notification.

- 5.6 Where a sample is found to contain Banned Drugs (other than those referred to in 5.2 above), the Purchaser may cancel the sale and return the Lot to the Vendor provided that notification is made in writing to DBS by 5.00 pm on the seventh day after the purchaser was notified by DBS of the result. For the purposes of determining when notification was received, DBS will rely on 15 below.
- 5.7 Failure to return the Lot in accordance with 5.6 above will prevent the Purchaser cancelling the sale under this Condition.
- 5.8 Where the Purchaser elects to cancel the sale in accordance with 5.6 above, the following will happen:
- (a) DBS will give notice to both parties that the sale is cancelled.
 - (b) The Lot will be at the Vendors risk, and the Vendor must arrange and pay for the Lot to be collected.
 - (c) The Vendor will pay the full DBS commission of 7.5% on the purchase price of the Lot as well as any DBS costs and expenses for taking and testing the sample. The Vendor will also indemnify DBS against any claims for costs, damages or expenses arising from the Sale of the Lot.
- 5.9 If after one hour from the delivery of the Lot to the designated holding area a sample has not been taken from the Lot the sale may be cancelled at the Purchaser's discretion.

6 Engagements

When engagements are included in the catalogue or announced at the Sale, it will be assumed that the Lot is being offered for sale with such engagements unless specifically stated to the contrary. It will be the sole responsibility of the Vendor to ensure that the relevant documentation is completed and lodged with the Authority in question, but of the Purchaser to cancel any race entry if a forfeit applies.

7 Private Sales and Transfers

- 7.1 Any sale concluded on the day of the Sale or within seven days between a Purchaser and a Vendor after the Lot has been unsold at the Sale shall be subject to the DBS Conditions of Sale. Such transactions must be finalised in writing on a Private Sale Form signed by the Vendor, the Purchaser and an authorised representative of DBS. The terms of 9 below will apply to the Purchaser.
- 7.2 Where DBS accepts the transfer of a Lot from the Purchaser to a third party (the New Purchaser), the appropriate Transfer of Ownership Form must be completed in the Auctioneers' Office. The terms of 9 below will apply to the New Purchaser.

8 Passing of Risk and Title

- 8.1 The Lot will be at the Vendor's risk at all times until the fall of hammer (or time of sale if sold

privately) when the risk shall pass to the Purchaser subject to 8.2 and 8.3 below.

8.2 Any Lot sold subject to re-examination under the terms of 4.1 above shall be at the Vendor's risk for 60 minutes from the fall of the hammer or, if re-examination is requested, until the completion of the re-examination. Risk remains with the Vendor if the Lot fails the examination and passes to the Purchaser if the Lot passes.

8.3 Any Lot tested for Banned Drugs under the terms of 5 above shall remain at the Vendor's risk from the fall of the hammer until the sample has been taken from the Lot when risk passes to the Purchaser. If the sample proves to be positive for Banned Drugs, risk will pass back to the Vendor when the Vendor is notified.

8.4 Notwithstanding the passing of risk in this Condition or delivery of the Lot to the Purchaser, the Vendor shall retain title to the Lot until the full purchase price has been paid to DBS.

8.5 Where DBS have paid out the Vendor in accordance with 2.8 above, title of the Lot will vest in DBS on the same terms as 8.4 above.

9 Purchasers

9.1 DBS strongly recommend that Purchasers should attend the Sale in person and Purchasers are strongly advised to inspect each

Lot prior to purchase. It is the responsibility of the Purchaser to ensure that he is satisfied with the condition of any Lot before bidding.

9.2 All Lots are sold subject to DBS Conditions of Sale and are subject to any announcements that may be made by the auctioneer. A Vendor may call upon DBS to amend the catalogue description at the Sale and it is the Purchaser's responsibility to ensure he hears any such announcement. The information on the DBS notice board, website and announcement boards in the Sales ring is for guidance only and DBS or the Vendor will not be liable for any error or omission from such information.

9.3 All certificates referred to in the catalogue will be available for inspection in the Auctioneers' Office prior to the Sale.

9.4 Immediately after the purchase of each Lot, the Purchaser must sign the Acknowledgement of Purchase Form confirming the sales details together with his name, address and other details where required by DBS.

9.5 (a) Subject to 9.5(b) and 9.8 below Payment must be made in sterling currency by the Purchaser for each Lot on the day of the Sale and the Lot must be removed by the Purchaser by the close of each day's sale.

(b) DBS may agree to other

payment terms in their discretion and may allow the Purchaser to remove the Lot before full payment has been received.

- (c) No Lot will be raced until it has been paid for in accordance with 9.5(a) above.
- 9.6 It is the sole responsibility of the Purchaser to ascertain whether the Lot is eligible for point to pointing within the meaning of the rules laid down by the BHA.
- 9.7 Where a Purchaser bids or buys on behalf of another, the Purchaser must disclose the name and address of his principal when required by DBS and both the Purchaser and his principal shall be jointly and severally liable under these Conditions.
- 9.8 Where the Purchaser notifies DBS that a Lot has been bought on behalf of another after the Sale and asks DBS to invoice that person (the "Nominee"), DBS (at its absolute discretion) may agree to do so on the basis that the Purchaser (his principal, if any) and the Nominee will be jointly and severally liable to pay the Purchase Price. The Purchaser's payment obligations in respect of the relevant Lot will only be discharged in the event that the Nominee has paid the whole of the Purchase Price. However, where the Nominee pays part of the sum due but the remainder is unpaid, DBS' claim shall be limited to the unpaid sum.

10 DBS' Rights

- 10.1 DBS reserve the right to exclude or remove any person or animal from their premises without giving any reason.
- 10.2 DBS reserve the right, without giving any reason, to reject any or all bids or to withdraw any Lot before or during any Sale.
- 10.3 DBS reserve the right to refuse to offer any Lot or to cancel a sale if the Vendor fails to produce the documentation set out in the Vendors Sale Requirements (Appendix 3) for each Lot.
- 10.4 DBS do not warrant that any Lot is eligible for participation in any Breeders Scheme or Race or the like notwithstanding any announcement or notice in the DBS catalogue or otherwise.
- 10.5 Where any Lot is stabled in the Sales Complex for a period exceeding 2 days on behalf of a Vendor or Purchaser, DBS will charge £25 per day for each horse subject to availability of stables at the discretion of DBS.
- 10.6 DBS may deduct expenses reasonably incurred where any Lot is left with them, returned to them or detained for veterinary inspection, or is the subject of the order of a public, local or other authority, from the proceeds of sale of any Lot.
- 10.7 DBS shall have general lien over all Lots belonging to any Owner, Vendor or Purchaser for any debt

or liability (howsoever arising) of such Owner, Vendor or Purchaser to DBS, and will be entitled without process of Law to sell the Lot by auction or private sale and to apply the net proceeds of such sale in satisfaction of any debt or liability.

- 10.8 Where any bid has been accepted for any Lot but the Purchaser has not made payment in full in accordance with these Conditions, DBS will have the right, without any process of Law, to recover possession of the Lot(s) and this right will include DBS entering the premises where the Lot is held to recover the Lot. The Lot may be sold and the net proceeds will be applied to the outstanding debt to DBS.
- 10.9 DBS will not release any Lot from the Sales Complex until a written release form in the form of a pass-out has been issued by DBS.
- 10.10 DBS accept no liability for the loss or damage to any vehicle which is parked at the owner's entire risk.
- 10.11 **DBS reserve the right to charge interest on unpaid accounts at 1.5% per month on all accounts which are unpaid 21 days after the last date of the Sale.**
- 10.12 DBS may sue for the price of the Lot together with any other expenses incurred by them in connection with the Lot where the Purchaser has failed to make payment in accordance with these

Conditions, and the Purchaser will have no right of set off against DBS.

- 10.13 DBS may at any time, without notice, set off any liability of a Debtor (including but not limited to the outstanding purchase price of any Lot) against any liability of any Associated Company to the Debtor (whether any such liability is present or future, actual or contingent, liquidated or unliquidated and irrespective of the currency of its denomination) and DBS may for such purpose convert or exchange any currency.
- 10.14 Any exercise by DBS of its rights under Condition 10.13 shall be without prejudice to any other rights or remedies available to DBS under these Conditions or otherwise.

11-13 Disputes Procedure

11 Complaints Procedure

The Complaints Procedure deals exclusively with the conditions in 12 below. For the avoidance of doubt, the clinical examinations in 4 above do not apply to this clause as those examinations must be dealt with on the day of the Sale by the Panel.

- 11.1 A Purchaser wishing to invoke this Condition must do so by informing DBS in writing by **5.00pm on the seventh calendar day after the Lot was purchased (third calendar day in the case**

- of Condition 12.1(i)) giving specific details of their complaint, supported by a certificate signed by an independent qualified veterinary surgeon (or independent professional/international rider in the case of Condition 12.1(i)).
- 11.2 Any complaint made by the Purchaser to DBS under 12.2 below must be supported by a certificate signed by an independent qualified veterinary surgeon within the time limit specified under 11.1 above.
- 11.3 The complaint shall be dealt with by DBS, or their appointee, (which may be a veterinary surgeon or professional/international rider or other deemed appropriate by DBS) at such time, at such place and in such manner as DBS deems appropriate. It shall be the responsibility of all parties to supply all relevant information to DBS in order that the complaint may be adjudicated. The decision of DBS, or their appointee, on the complaint, which will be delivered without reasons, shall be final and binding on both the Vendor and the Purchaser. DBS may have the Lot examined by their appointee and where the opinion of their appointee does not agree with the opinion of the Purchaser's appointee as expressed in his certificate furnished, then the opinion of the DBS appointee shall prevail and shall be final and binding on the parties.
- 11.4 DBS commission and all expenses deemed reasonable by DBS will be paid by the unsuccessful party. This will include expenses incurred by DBS in dealing with any complaint and expenses incurred by the successful party from the fall of hammer until the conclusion of the dispute. If the Lot is collected by the Vendor from the Purchaser he is deemed to be the unsuccessful party having given up the right of independent adjudication.
- 11.5 No complaint under this Condition will be dealt with by DBS if the Lot has been taken out of the British Isles or Eire.
- 11.6 For the avoidance of doubt risk remains with the Purchaser throughout any complaint and only passes back to the Vendor when both parties are notified of DBS decision to cancel the sale (if appropriate).
- 12 Lots Returnable**
- The Complaints Procedure set out in 11 above will only apply if the information in 12.1 below is not stated in the catalogue or announced at the Sale or if the conditions in 12.2 below are not declared in the catalogue or are not announced without qualification at the Sale. In these cases, the sale may be cancelled at the discretion of the Purchaser.
- 12.1 (a) The Lot is not registered with a Stud Book Authority approved

by the International Stud Book Committee.

- (b) The Pedigree or description of the Lot does not correspond with the Pedigree or description as stated in the catalogue.
- (c) The Lot is described as a Colt and does not at such time have both testes palpable (this provision is to apply only to any horse offered for sale after the 15 August of their yearling year).
- (d) The Lot has run at an unrecognised meeting or is on the forfeit list maintained by a Recognised Turf Authority.
- (e) The Lot is the subject of a Starting Stalls Test as ordered by the Stewards of the BHA.
- (f) A Broodmare/Filly has been covered and/or subsequent to any covering slipped the foal.
- (g) Has significantly impaired vision or serious injury to the eye likely to affect it's usefulness.
- (h) The Lot is described as unbroken and has been broken and ridden prior to the sale. For the avoidance of doubt a Lot described as driven in long reins will not be returnable under this Condition.
- (i) The Lot is described as untried and has been tried prior to Sale in the opinion of DBS or their

appointee. A Lot will be deemed tried if it

- i. has run in any race
- ii. has been catalogued in any previous Breeze-Up Sale
- iii. has appeared on any published Trainer's or Permit Holder's List
- iv. has been galloped "upsides" prior to Sale and that this can be proven beyond reasonable doubt to the satisfaction of DBS
- v. is deemed to have been broken & tried prior to Sale to the satisfaction of DBS appointee taking all matters into consideration

12.2 The Lot:

- (a) has been tubed or otherwise operated on for unsoundness in wind;
- (b) has been unnerved;
- (c) is a wind-sucker (i.e. frequently swallows air whether in association with grasping fixed objects with incisor teeth or not; a crib-biter is not returnable unless the crib-biting is associated with a frequent wind-sucking, in which case the Lot is returnable as a wind-sucker);
- (d) has been operated upon for wind-sucking or crib-biting;
- (e) is a frequent weaver; (i.e. frequently swing its head and

neck to and fro and transfers weight from one forelimb to the other alternatively).

(f) is a frequent boxwalker; (i.e. frequently walks either backwards and forwards or round and round the box repeatedly in an aimless manner).

(g) is a wobbler

13 Disputes

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

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

14 Safety

14.1 Every person on DBS premises before, during or after the Sale shall be deemed to be there at their own risk and shall have no claim against DBS in respect of any injury sustained or any loss or damage to property which may occur from any cause whatsoever save that nothing in this sub-clause shall be taken to exclude or restrict liability for death or personal injury arising from DBS' negligence.

14.2 DBS accept no liability for any loss or injury caused to or by any Lot whilst he is being moved by their employees or agents premises during the conduct of the Sale or by disease, accident or otherwise save that nothing in this sub-clause shall be taken to exclude or restrict liability for death or personal injury arising from DBS' negligence.

14.3 All Lots must wear a headcollar at all times on DBS premises. Where a Vendor is found to have left a Lot without a headcollar after the Sale, DBS will supply a headcollar at the Vendor's expense.

14.4 If any Lot is ridden at any time in conjunction with the Sale, the rider must wear an BHA approved helmet and body protector, and it shall be the responsibility of the Vendor or Purchaser to ensure that they, their employees or agents, adhere to this Condition.

14.5 Children under the age of 5 years will not be admitted to the Sales Complex in the interest of safety.

14.6 Dogs will not be permitted in the Sales Complex.

15-16 General

15 Notices

When any certificate or notice is required to be given to DBS under these Conditions of Sale, it must be made in writing and sent by first class post or facsimile to the DBS Hawick Office or emailed to winners@goffsdbs.com. Any notice

required to be given by DBS to the Vendor or the Purchaser shall be sent to the address given on the Entry Form or the Acknowledgement of Purchase Form. Such notice shall be deemed given on the date of delivery or the second day after posting or on the day of transmission depending whether the notice is sent by hand, post, fax or email.

16.5 The submission to the jurisdiction of the Courts of England and Wales shall not limit the right of DBS to take proceedings against the Owner, the Vendor or the Purchaser in any other Court of competent jurisdiction and the taking of proceedings in one or more jurisdictions shall not preclude the taking of proceedings in any other jurisdiction whether concurrently or not.

16

- 16.1 DBS reserve the right to add, cancel, alter or otherwise modify these Conditions of Sale.
- 16.2 These Conditions of Sale form the entirety of the agreement between DBS, the Owner, the Vendor and the Purchaser and no variation shall be valid or binding unless specifically authorised in writing by two Executive Directors of DBS.
- 16.3 These Conditions of Sale are to be construed and shall take effect in accordance with English Law and shall be subject to the exclusive jurisdiction of the Courts of England and Wales.
- 16.4 The Owner, the Vendor and the Purchaser agree for the exclusive benefit of DBS that these Conditions of Sale shall be subject to the non-exclusive jurisdiction of the Courts of England and Wales and, for such purpose, irrevocably submit to the non-exclusive jurisdiction of those Courts.