

**CONDITIONS OF SALE  
FOR ALL SALES OF LIVESTOCK AT LIVESTOCK  
AUCTION MARKETS**



**Recommended for use by  
The Livestock Auctioneers' Association Ltd**

(Revised August 2017)

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# CONDITIONS OF SALE

## GENERAL

### 1 Definitions

1.1 In these Conditions unless the context otherwise requires the words and expressions set out on the left-hand side of the page shall have the meanings set out opposite them:

“a \*Warranty” - a warranty under which a claim may be made up to the time stated at \* after the day of the sale but must be made by notice in writing received by the Auctioneer within that period;

“a \*+\*\* Warranty” - a warranty under which a claim may be made up to the time stated at \* after the day of the sale but must be made by notice in writing received by the Auctioneer within the time stated at \*\* of the end of that period;

“After Sale Warranty” - a warranty under which a claim may be made up to one hour after the time of sale or when the animal to which the claim relates is removed from the Sale Premises, whichever is the sooner, which claim may be made orally but must be received by the Auctioneer within that period and confirmed in writing within 48 hours of the time of sale or removal from the Sale Premises (as the case may be);

“Auctioneer” - the person conducting the sale and the person by whom that person is employed or on whose behalf that person is conducting the sale;

“CPRC” – a Central Point Recording Centre set up to enable sheep tags to be read in accordance with the EID Regulations operative from 1 January 2010 pursuant to Council Regulation (EC) No 21/2004 as amended by Commission Regulation (EC) NO 759/2009 and the relevant UK Regulations implementing the scheme in England and Wales;

“DEFRA” - the Department for Environment Food and Rural Affairs or (as the case may be) the Welsh Office Agricultural Department or any substitute Department for either;

“EID” – the Electronic Identification of sheep scheme operative from 1 January 2010 pursuant to Council Regulation (EC) No 21/2004 (as amended) and the relevant UK Regulations implementing the scheme in England and Wales;

“Enactment” - any statute or statutory provision (whether of the United Kingdom or elsewhere), subordinate legislation (as defined by section 21(1) of the Interpretation Act 1978) and any other subordinate legislation made under any such statute or statutory provision;

“End of the Day’s Sale” - the time when the hammer falls on the last Lot in the sale or the last Lot in that section of the sale (as the case may be);

“FCI” – Food Chain Information legislative requirements operative from 1 January 2010 in respect of cattle, sheep, pigs and goats pursuant to Council Regulation (EC) No 853/2004 providing specific rules for food of animal origin and subsequent hygiene regulations implemented by the UK Government in England and Wales;

“Latent” – hidden, concealed, existing but not developed or manifest, or dormant;

“Liquidated Damages” - ascertained and agreed damages to cover all expenses, depreciation in value and other damages whatsoever;

“Lot” – livestock included in a sale conducted by the Auctioneer and offered for sale under these Conditions whether sold as an individual or as a group and numbered accordingly in the catalogue for sale;

“Patent” – open, plain or obvious;

“Purchaser” - in relation to any Lot, the person whose bid for that Lot has been accepted by the Auctioneer or, if Condition 17 applies, a Purchaser from that person and in either case including the personal representative(s) of such person;

“Sale Premises” - the building(s) and/or land used by the Auctioneer as the location for the sale;

“Take delivery” means accept a transfer of possession; on present at the time of sale which, in the opinion of a Veterinary Surgeon, constitutes a departure from the normal physical condition of a healthy animal;

“Unsoundness” means any condition, state or formation present at the time of sale which, in the opinion of a Veterinary Surgeon, constitutes a departure from the normal physical condition of a healthy animal;

“Vendor” – the person selling the Lot and this also includes the owner and any other person, other than the Auctioneer, who offers a Lot for sale and the personal representative(s) of any such person;

“Veterinary Surgeon” - a Member of the Royal College of Veterinary Surgeons with not less than five years’ post qualification experience of dealing with the class of livestock concerned, or, in the case of a veterinary surgeon who is not a UK national one who holds a similar qualification from the country where he qualified;

“Veterinary Surgeon’s Certificate” - a certificate signed by a Veterinary Surgeon setting out the ear tag number or other identification mark(s) of the animal to which it refers and confirming the existence of facts or circumstances or stating an opinion including any particular fact, circumstance or opinion required by these Conditions;

“Warranty of Title” - the terms implied by section 12 of the Sale of Goods Act 1979 as to the Vendor’s right to sell, quiet possession and freedom from encumbrances.

## **1.2 Interpretation**

In these Conditions:

- 1.2.1 words signifying the masculine include the feminine and vice versa;
- 1.2.2 words signifying the singular include the plural and vice versa;
- 1.2.3 references to a person include a corporation;
- 1.2.4 references to any Enactment include a reference to:
  - 1.2.4.1 any Enactment which that Enactment has directly or indirectly replaced (whether with or without modification); and
  - 1.2.4.2 that Enactment as re-enacted, replaced or modified from time to time, whether before, on or after the date of these Conditions;
- 1.2.5 references to a Condition, Schedule or Appendix are to a Condition or part of a Condition, Schedule or the Appendix to these Conditions;
- 1.2.6 the contents table and the descriptive headings to Conditions, Schedules and the Appendix are for convenience only and shall be ignored when interpreting these Conditions; and
- 1.2.7 the words and phrases “other”, “include”, “including” and “in particular” shall not limit the generality of any preceding words or be construed as being limited to the same class as the preceding words where a wider construction is possible.

**The Conditions which follow (together with Schedule 6) apply to all sales of livestock and those Conditions set out in Schedules 1 – 5 respectively apply specifically to the livestock referred to in each of them. In the event of any discrepancy between the Conditions which follow (including Schedule 6) and the provisions of Schedules 1 – 5 the latter shall prevail.**

## **2 Time limits**

- 2.1 Time shall be of the essence of all Conditions which contain time limits. Where the time limited for any person to do anything expires on a Sunday, bank or other public holiday, or on the day next following any such day, then such Sunday or bank or other public holiday shall be excluded from the computation of the time.
- 2.2 In the computation of any period of time before or after the sale or any other event, the day of the sale or other event, as the case may be, shall be excluded.
- 2.3 Any period of time expressed as a number of days shall be taken to refer to that number of clear days, and similarly for any other period of time.

## **3 Statements of fact**

Unless otherwise announced all statements of fact made in any sale catalogue or at the time of sale regarding the breeding of any animal, its health status or other tests carried out on any animal are statements of fact made by the Vendor and not the Auctioneer and the Auctioneer accepts no responsibility for any misstatement nor does he nor the Vendor accept any responsibility for any subsequent reaction by an animal sold to any relevant test administered after the sale.



## **4 Service of Notices**

- 4.1 Notwithstanding anything to the contrary in these Conditions, and save as provided by Condition 4.2, any written notice under any of these Conditions may be served on the person to whom it is to be given either personally, or by leaving it for him at his last known address, or by sending it through the post in a prepaid recorded delivery letter addressed to him there, and any such letter shall be deemed to have been received by him at the time at which it would be delivered in the ordinary course of post.
- 4.2 Any written notice required by any of these Conditions to be given by a Purchaser to a Vendor may be given by such Purchaser to the Auctioneer on the Vendor's behalf, either by leaving it at the office of the Auctioneer, or by sending it through the post in a prepaid recorded delivery letter addressed to the Auctioneer there and any such letter shall be deemed to have been received by the Vendor at the time at which it would be delivered to the Auctioneer in the ordinary course of post.
- 4.3 On receiving any notice under Condition 4.2 the Auctioneer shall, as soon as reasonably practicable, communicate its contents to the Vendor.
- 4.4 Except as above, all communications and negotiations with reference to any dispute between any Purchaser and Vendor under these Conditions shall take place directly between the Purchaser and the Vendor respectively without involving the Auctioneer.

## **5 Liability of the Auctioneer**

- 5.1 The Auctioneer acts in all respects only as agent for the Vendor and no warranty is given by the Auctioneer or his employees or contractors, and none shall be implied, as to title, description or the quality of any Lot. Neither the Auctioneer nor his employees or contractors shall be liable to the Purchaser in any respect for any defect of title, error of description or imperfection or for any announcement or statement concerning any Lot offered for sale whether made orally or in writing (whether in a sale catalogue, order of sale, advertisement for the sale or otherwise) and whether given before, during or after the sale, nor shall he incur any liability in relation to any dispute between a Vendor and Purchaser.
- 5.2 The Auctioneer shall not be liable:
- 5.2.1 in any way for any errors with or deficiencies in the Vendor's ear tagging of his cattle, sheep, pigs and goats nor any shortcomings with the reading equipment used in the CPRC in accordance with the EID Regulations nor any reading or print out produced by the said equipment;
- 5.2.2 in any way for any errors, mis-description or false declarations in any documentation produced by the Vendor and accompanying any animal to a sale, including but without prejudice to the generality of this sub-clause details of its breeding, service by a named sire, animal passports, certificates or movement forms, including any livestock moving directly on from a market to an abattoir, nor, in respect of any such documentation provided to the Auctioneer and subsequently passed on to any one or more third parties;
- 5.2.3 in any way for any accident which happens to any person while on the Sale Premises, unless it arises out of the negligence of the Auctioneer or his employees or contractors.

- 5.2.4 in any way in the event of any interruption, suspension, cancellation or disturbance to the telephone or on-line auction service nor any loss arising if any of these events occurs.
- 5.3 The Auctioneer shall ensure that any weighbridge used at a sale weighs accurately throughout that sale.

## **6 Conduct of sales**

- 6.1 Every Vendor, bidder and Purchaser shall be deemed to have full knowledge of these Conditions and by taking part in the sale agrees to be bound by them.
- 6.2 If livestock entered for a sale is advertised by the Auctioneer and the person entering that livestock for the sale fails to bring it to the sale the Auctioneer may charge him a fair and reasonable proportion of the expenses incurred.
- 6.3 If a person who has brought an animal for sale on to the Sale Premises sells the animal privately on the day of sale and on the Sale Premises, either before it is offered for sale or, if it fails to sell, afterwards, these Conditions shall, so far as applicable, govern that private sale.
- 6.3.1 In the case of a private sale:
- 6.3.1.1 the Vendor and the Purchaser shall immediately notify the sale to the Auctioneer and the purchase money shall be payable to the Auctioneer in full as if the sale had taken place through the sale ring; and
- 6.3.1.2 the Auctioneer may charge the commission which would have been payable if the animal had been sold through the sale ring for the price obtained on the private sale, and if he exercises that right the Auctioneer may deduct the commission from the purchase money before accounting for it to the Vendor.
- 6.4 If the Vendor fails to comply with the provisions of 6.3.1.1 he shall be liable to pay the Auctioneer's commission.

## **7 Exclusion of animals**

- 7.1 The Auctioneer may in his absolute discretion refuse to offer for sale and/or exclude from the Sale Premises any animal brought to the Sale Premises by any person.
- 7.2 Without limiting its effect the Auctioneer may exercise his rights under Condition 7.1 in relation to:
- 7.2.1 any animal which shows any signs of disease, deformity or of being dangerous;
- 7.2.2 any animal which appears to be over-full or excessively dirty;
- 7.2.3 any bull aged 8 months or more which is not effectively ringed and haltered unless it is a young bull reared to be sold for bull beef which satisfies all current safety regulations.
- 7.3 The decision of the Auctioneer under this Condition shall be final and binding on all parties and the Auctioneer shall not be liable in any way to any person for any act reasonably undertaken by him in the exercise of his rights under this clause or for any consequences arising from any such decision.

7.4 If any person brings to the Sale Premises any animal which he knows or should reasonably have known to be dangerous, or any animal the exposure of which in any market, or at any sale is for the time being forbidden by law, he shall be liable for all injuries, damages, costs, losses or expenses which the Auctioneer or any other person may sustain or incur, either directly or indirectly, as a result of the animal's presence at the Sale Premises.

## **8 Reserve prices, order of sale and bidding**

8.1 The Auctioneer reserves on behalf of himself and the Vendor the following rights:

8.1.1 to fix a reserve price;

8.1.2 to bid on behalf of the Vendor up to the value of the reserve price;

8.1.3 to re-arrange, consolidate or withdraw any Lots or to vary the order of the sale; and

8.1.4 without giving any reason, to refuse to accept the bids of any person.

8.2 A Vendor who wishes to fix a reserve price on any Lot owned by him shall notify the Auctioneer in writing before the sale of that Lot, failing which the Auctioneer may sell the Lot to the highest bidder.

8.3 The Auctioneer may refuse to accept bids from a Vendor for a Lot owned by him and a Vendor shall not bid for a Lot owned by him using any agent other than the Auctioneer.

8.4 No person may advance on the previous bid less than the sum announced from time to time by the Auctioneer.

8.5 No bid may be retracted once made.

8.6 The person making the highest bid accepted by the Auctioneer shall be the Purchaser.

8.7 If a dispute arises as to any bidding, then, at the discretion of the Auctioneer, either:

8.7.1 the Lot shall immediately be offered for sale again; or

8.7.2 the Auctioneer shall determine the dispute, and his decision shall be final and binding on all parties

8.8 For the avoidance of any doubt the above Conditions apply whether bidding is by telephone, or on line, in the same way as if the bidder is present at the sale.

8.9 Where a Purchaser wishes to bid by telephone or on line the following additional conditions shall apply:

8.9.1 if the Purchaser is not already known to the Auctioneer he shall provide such personal information as the Auctioneer may require for identification, security and financial purposes (i.e. bank debit card details) as well as two telephone numbers;

8.9.2 the bank card details provided will be used by the Auctioneer to pay the purchase price and any other charges on or before the End of the Day's Sale.

## **9 Removal of livestock**

The Purchaser shall remove the Lots he has purchased following payment in full to the Auctioneer but only after the Auctioneer has issued him with a written pass and then at his own expense within such reasonable time after the End of the Day's Sale as the Auctioneer may direct.

## **10 Terms of business**

- 10.1 The Auctioneer shall ensure that his trading terms are clearly communicated to all Vendors and Purchasers by being displayed at the Sale Premises and that they include:
  - 10.1.1 an obligation on the Auctioneer to pay to the Vendor within an agreed time the net proceeds of sale (i.e. the price paid by the Purchaser less agreed commission and any other deductions) for each Lot; and
  - 10.1.2 full details of the rates of commission charged by the Auctioneer.
- 10.2 If the Auctioneer charges a buyer's premium this will be clearly communicated to all prospective Purchasers before the sale begins.

## **11 Statutory levy schemes**

- 11.1 The Auctioneer shall notify Vendors and Purchasers of any statutory levy schemes which are in force at the time of the sale and shall clearly designate prior to the start of the sale the section(s) to which any levy scheme applies. In the case of levy schemes applying to animals designated as slaughter animals and where the Auctioneer has designated a slaughter section of the sale:
  - 11.1.1 the Vendor accepts a liability to be debited with the amount of any such sum recoverable by the Purchaser in respect of all of the animals in that section
  - 11.1.2 the Purchaser accepts that the sum which he may recover from the Auctioneer will be credited to him only for animals sold in the designated section of the sale, even though animals within other sections of the sale may, following their purchase, be sent for immediate slaughter.
- 11.2 For the purposes of Condition 11.1 the Auctioneer's decision regarding the designation of animals as slaughter animals or non-slaughter animals shall be final and binding on all parties.

## **12 Liability of Vendors and Purchasers for documentation**

- 12.1 Where under any Enactment an animal must be accompanied by any documentation:
  - 12.1.1 the Vendor shall be responsible for delivering to the Auctioneer all relevant documents and shall indemnify the Auctioneer against any claim by the Purchaser resulting from false or incorrectly completed documents and in the event of the Vendor's non delivery to the Auctioneer of any such documentation the Auctioneer shall refuse to accept such animal(s) for sale;

- 12.1.2 the Vendor shall notify the Auctioneer if he has been suspended from any Farm Assurance Scheme, or any similar scheme, and this information shall be included in any catalogue for sale and announced at the sale by the Auctioneer;
- 12.1.3 the Purchaser shall be responsible for obtaining from the Auctioneer or the Vendor, as the case may be, all documentation to which he is entitled and shall indemnify the Auctioneer against any claim from any person resulting from the Purchaser's failure to do so.
- 12.2 If the Purchaser believes that any documentation is false or incorrectly completed he shall notify the Auctioneer by telephone or email (confirmed by notice in writing posted first class to the Auctioneer and supported by a Veterinary Surgeon's Certificate or similar officially authorised certificate) before the end of normal business hours on the second day after the day of sale.
- 12.3 Where any Enactment requires the Auctioneer to give information to any statutory or other authority (such as DEFRA or any of its agencies) or any other organization the Auctioneer may use any documentation or other information in his possession to supply any information that is so required.

### **13 Disclosure of owner's name: sale for disclosed principal**

- 13.1 Each animal shall be entered for sale in the name of its owner and if required the owner's name as given to the Auctioneer shall be announced when the animal is offered for sale.
- 13.2 Whether or not a Purchaser requires disclosure of the owner's name the Auctioneer shall for all purposes be deemed to sell as agent for the owner as the disclosed principal.

### **14 Warranty of Title**

All Lots are accepted for sale by the Auctioneer on condition that the Vendor warrants his right to sell the same. The Vendor shall indemnify the Auctioneer and the Purchaser against all actions, costs, proceedings, claims, damages, demands, charges and expenses which they may sustain or incur by reason of any defect in the Vendor's title or arising from the false or incorrect completion of any documentation.

### **15 Principal and agent: joint and several liability: bids by agents**

- 15.1 Where animals are offered for sale by a person in his own name but such animal belongs to another person or persons and he is actually acting as an agent he shall, if so required by the Auctioneer, be bound to disclose the name and address of his principal and in such a case both the principal and the agent shall be jointly and severally liable and any steps authorised by these Conditions or by the general law may be taken against either or both of them.
- 15.2 Any person intending to bid for any animal as an agent shall inform the Auctioneer before the sale of such animal begins and shall, if required by the Auctioneer, disclose the name and address of his principal.
- 15.3 Subject to Condition 15.4, in all cases where a person whose bid is accepted is acting as an agent, whether or not he has disclosed that fact, he and his principal shall be deemed to be and shall remain jointly and severally liable and:

- 15.3.1 any steps or proceedings authorised by these Conditions or the general law may be taken or commenced against either or both of them; and
- 15.3.2 no steps taken or proceedings commenced against the principal or the agent shall be deemed to operate as an election discharging the other from liability unless such steps or proceedings result in a final satisfied judgement.
- 15.4 Condition 15.3 shall not apply if before the commencement of the sale the person acting as an agent informs the Auctioneer that he intends to bid as a principal, in which case he will be deemed to be solely liable.

**16 Name of Purchaser: payment of purchase money: transfer of title**

- 16.1 The Purchaser shall give his name and address to the Auctioneer when requested to do so.
- 16.2 The Purchaser shall pay the purchase money for each Lot that he bids for successfully to the Auctioneer as soon after the fall of the hammer as the Auctioneer may require. Any time allowed for payment in respect of any purchase money shall not be construed as a waiver of the right to require earlier payment on any subsequent purchase.
- 16.3 The Purchaser shall not make any set-off or other plea for non-payment of the purchase price and shall be liable to the Auctioneer for any unpaid purchase price whether or not the Lot he successfully bid for has been delivered.
- 16.4 If the Purchaser fails to pay for any Lot when required to do so by the Auctioneer and he is not entitled to return the Lot under any of these Conditions, the Auctioneer may, by notice in writing to the Purchaser, rescind the sale to him whereupon the Lot shall be deemed to be resold to and become the property of the Auctioneer who shall be responsible to the Vendor for the amount for which the Lot was sold to the Purchaser less the applicable charges.
- 16.5 Notwithstanding that the risk in an animal in any Lot may have passed to the Purchaser, title to the animal in any Lot will remain with the Vendor until the Purchaser has paid the purchase price for that Lot in full and in the case of uncleared funds the sum has cleared in the Auctioneer's bank account. Until title has passed to the Purchaser under this condition the Vendor may recover possession of the Lot from the Purchaser and the Vendor or the Auctioneer may enter the Purchaser's premises (or such other premises where the animal is held) in order to do so. For the avoidance of any doubt the reference to Purchaser's premises, or such other premises where the animal is held, includes an abattoir in circumstances where an animal has been sold for slaughter and the reference to animal shall include the carcase of an animal that has been slaughtered.
- 16.6 If the Auctioneer accounts to the Vendor for the purchase price for a Lot (less the applicable charges) before the Purchaser has made payment in full to the Auctioneer the Auctioneer shall be entitled to any rights in any animal in that Lot which the Vendor may have under Condition 16.5.

**17 Sales of animals by a Purchaser**

If, before an animal is removed from the Sale Premises, the Purchaser of the animal sells it to another person and notifies the Auctioneer of the name and address of that person then that person shall be treated as the Purchaser of the animal and shall be entitled to all the rights, and subject to all the obligations, of the original Purchaser under these Conditions but this will not affect the right of the Vendor, or of the Auctioneer as agent for the Vendor, to hold the original Purchaser liable if the subsequent purchaser fails to fulfil any of those obligations.

**18 Responsibility for livestock before and after sale**

18.1 All livestock is at the risk of the Vendor before sale and at the risk of the Purchaser after sale.

18.2 The Auctioneer through his employees and/or contractors shall take reasonable care when moving livestock to and from the sale ring.

18.3 If the Auctioneer expressly agrees to take charge of any livestock after the sale or to forward the same to its destination he shall be liable for any failure to fulfil this obligation which is due to his or his employees' or contractors' negligence, but otherwise, save as provided by Condition 18.2, the Auctioneer shall have no liability or obligation for the safe custody of any livestock after the sale.

**19 Default**

19.1 If a Purchaser fails to perform any of his obligations under these Conditions the Auctioneer may cause the Lot in respect of which the failure is made to be resold by public or private sale without warranty or reserve and without notice to the Purchaser.

19.2 If on such re-sale a lower price is obtained for any Lot than was obtained on the original sale, the Purchaser shall be liable to the Auctioneer for the difference in price together with all associated re-sale costs and expenses incurred on the resale.

# SCHEDULE 1 – CATTLE

## Definitions

In this Schedule unless the context otherwise requires the words and expressions on the left-hand side of the page shall have the meanings set out opposite them:

“Calf” - any bovine animal under the age of 56 days;

“Clinical” - detectable by sight or touch;

“Cull” - deemed by its owner for any reason to have reached the end of its useful or breeding life;

“Dairy Cow” or “Dairy Heifer” - a cow or heifer (as the case may be) which is included in a sale or section of a sale and offered for sale as “dairy cattle”;

“Heifer” - for the purposes of this Schedule under Animals Sold for Slaughter and Store Cattle means any female bovine animal which has not previously given birth to a calf and for the purposes of this Schedule under Dairy and Beef Breeding Cattle includes a young cow which has not reached the end of her first natural lactation.

“Imported” - brought into any part of the United Kingdom from any place outside the United Kingdom;

“In Calf” - an In Calf Cow or Heifer warranted by the Vendor to calve a fully developed Calf within a given number of days whose presence at the sale complies with the then current regulations issued by DEFRA for such animals to be offered for sale,

and, where it is stated to be In Calf to a named sire the Vendor shall provide the Auctioneer with details of the sire, his ear tag number and any breed society registration number together with such, if any, further information that may be required of him, such information to be included in any catalogue for sale and announced at the sale;

“Suckler Cow” - a female bovine animal that has previously given birth to a Calf and which is not offered for sale as a Dairy Cow;

## **1            Unsoundness**

### **1.1           *Vendor’s warranty***

Unless stated to the contrary in any catalogue for sale or at the time of sale, subject to Condition 3 and any specific exclusions detailed below, animals sold are warranted by the Vendor as follows:

#### **1.1.1        *Store, dairy and beef breeding cattle***

Each animal (excluding Calves except as separately warranted in these Conditions) is warranted to be free from any Unsoundness. This warranty is:

in respect of eyes, teeth, legs and feet or any visible defect, an After Sale Warranty; and

#### **1.1.2        in all other respects except in the case of Clinical Johne’s disease, (see Condition 1.1.3) and except as warranted in Conditions 16 to 19 inclusive and Conditions 21 to 33 inclusive a 5 + 5 Day Warranty.**

#### **1.1.3        in the case of Clinical Johne’s disease a 30 + 5 Day Warranty**

### **1.2           *Cattle sold for slaughter***

Each animal is warranted to be free from any visible injury, visible physical defect or external malformation. This warranty is an After Sale Warranty.



## **2 Purchaser's rights**

If the Purchaser proves a breach of warranty he may exercise his rights under Schedule 6. Notice of a claim under the warranty in Condition 1.1.3 must be supported by a Veterinary Surgeon's Certificate.

## **3 Exclusions and exceptions to the warranty of soundness**

3.1 If an animal is sold "as it stands" it is sold without any warranty except as to title. Each of the following is deemed to be sold "as it stands" without the need for any statement by the Auctioneer either in any catalogue for sale or at the time of sale:

- a) any stock bull, calved cow or calved Heifer, or any cow or Heifer in Calf which realises less than the amount in paragraph (a) of the Appendix;
- b) any Calf, or any bovine animal not included in paragraph (a) above, which realises less than the amount in paragraph (b) of the Appendix;
- c) any cull stock sold for slaughter except as warranted in Condition 14 above, and Conditions 4.1, and 11 in this Schedule

## **4 Effects of medication**

### *4.1 Vendor's warranty*

The Vendor warrants that, unless stated to the contrary in any catalogue for sale or at the time of sale, any animal sold which has been treated with any medicine has completed the withdrawal period for that medicine recommended by its manufacturer. This is a 5 + 5 Day Warranty.

### *4.2 Purchaser's rights*

If the Purchaser proves a breach of warranty he may exercise his rights under Schedule 6.

Notice of a claim must be supported by a Veterinary Surgeon's Certificate.

## **5 Animals found to be imported**

### *5.1 Vendor's warranty*

The Vendor warrants that animals described in any catalogue for sale or at the time of sale as born in the UK are not and do not contain Imported animals. This is an After Sale Warranty.

### *5.2 Purchaser's rights*

If the Purchaser proves a breach of warranty he may exercise his rights under Schedule 6 either in respect of the Imported animal only or in respect of all of the animals in the Lot containing the Imported animal.

**6 Contact with non-accredited stock**

If the Purchaser of any animal which for the purpose of maintaining its health status is segregated from other animals on the Sale Premises, allows it to come into contact with other animals which are non-accredited, either on the Sale Premises, or elsewhere, or in any other way allows it to lose its Health Status accreditation, any right which the Purchaser would otherwise have under these conditions to return the animals to the Vendor shall be lost.

**7 Pedigree stock**

These Conditions shall apply to the sale of any pedigree stock save in so far as they conflict with any special conditions expressly stated by the Auctioneer in any catalogue for sale or at the time of sale as applying to that sale.

**ANIMALS SOLD FOR SLAUGHTER**

**8 Description of animals sold for slaughter**

Unless stated to the contrary in any catalogue for sale or at the time of sale any animal described as 'fat', 'finished' or 'prime' or which is within a designated slaughter section of the sale, is being offered for slaughter.

**9 Warranties under the Food Safety Act 1990**

In this Condition the words and expressions set out on the left-hand side of the page shall have the meanings set out opposite them:

"the Act" - the Food Safety Act 1990;

"Agreed Damages" - the aggregate of:

- i. the purchase price at the sale of the Defective Livestock, less any proceeds of disposal of elements of the carcass approved for human consumption;
- ii. the reasonable costs of transporting, feeding and housing Defective Livestock between the day of the sale and the date of disposal by the Purchaser;
- iii. the reasonable costs of transporting, feeding and housing, and (if appropriate) slaughtering, Defective Livestock between the day of sale and the date of disposal by the Purchaser; and
- iv. the reasonable fees of the Veterinary Surgeon and other reasonable costs of investigating liability;

“The Day of the Sale” - the date on which the livestock is sold;

“Defective Livestock” - any livestock not complying with the warranty in paragraph 11 of this Schedule;

“Livestock Not Intended for Human Consumption” - any livestock declared “not intended for human consumption” by written notice displayed by the Auctioneer at the Sale Premises or announced by the Auctioneer at the time of sale;

“Livestock Sold for Slaughter” - any livestock declared “sold for slaughter” by written notice displayed by the Auctioneer at the Sale Premises or announced by the Auctioneer at the time of sale.

## **10 Deemed slaughter date**

For the purposes of Condition 11 of this Schedule Livestock Sold for Slaughter shall be deemed to be slaughtered within five days of the Date of the Sale and when applying the Act, “food” shall be interpreted to include Livestock Sold for Slaughter as if the same had been slaughtered on The Day of the Sale.

## **11 Vendor’s warranty**

The Vendor warrants that any Livestock Sold for Slaughter (unless it is Livestock not Intended for Human Consumption) complies with all the food safety requirements set out in section 8(2) of the Act and any other applicable Enactments and will be accompanied (inter alia) by the requisite form of FCI declaration as well as all other (if any) requisite documentation. This warranty is a 5 Day Warranty.

For the avoidance of any doubt if any animal sold for slaughter is condemned by an abattoir the Vendor will pay to the Auctioneer on demand the purchase price paid by the Purchaser together with any other associated costs as a debt.

## **12 Purchaser’s rights**

If the Purchaser proves a breach of warranty then the Vendor shall pay the Purchaser Agreed Damages as calculated by the Auctioneer whose decision shall be final and binding on the parties. Notice of a claim must be supported by a Veterinary Surgeon’s Certificate or by the certificate of a competent authority or qualified person:

- a) confirming that in his opinion the livestock the subject of the claim was at the time of sale Defective Livestock and that the same was slaughtered within 5 days of The Day of the Sale;
- b) identifying the Defective Livestock by ear tag and/or Lot number;
- c) detailing the Agreed Damages claimed supported by documentation identifying the Defective Livestock as the subject of any expenses (any such documentation shall be returned to the Purchaser by the Auctioneer within 14 days of its submission).

### **13 Warranty on Heifers sold for slaughter**

Unless stated to the contrary in any catalogue for sale or at the time of sale, subject to any specific exclusions detailed below, Heifers sold for slaughter are warranted by the Vendor as follows:

#### *Vendor's warranty*

Each Heifer is warranted not to be In Calf at the time of sale

#### *Purchaser's rights*

If the Purchaser proves a breach of warranty:

- i. in respect of a Calf weighing at the time of slaughter 9kg or less the Purchaser shall not be entitled to any compensation or damages.
- ii. in respect of a Calf weighing at the time of slaughter more than 9kg the Vendor shall pay to the Purchaser as Liquidated Damages a sum equal to one and a half times the value of the Calf alone, calculated as a proportionate part of the value of the Heifer ascertained from its purchase price per live kg at the sale.

Notice in writing of the Purchaser's claim must be given to the Auctioneer within 48 hours after the slaughter of the Heifer supported by a Veterinary Surgeon's Certificate or a slaughterhouse manager's or other competent person's certificate confirming the ear tag identity number of the Heifer, the date of slaughter and the weight of the Calf at that date.

### **14 Sale by weight**

The weights of such animals as are sold by weight shall be declared by the Auctioneer at the time of sale. Any dispute regarding the weight of any animal shall be determined by the Auctioneer who may, in his sole discretion, reweigh any animal.

### **15 Weighbridge**

The Auctioneer shall ensure that any weighbridge used in a sale weighs accurately throughout that sale

## **STORE CATTLE**

### **16 Heifers proving In Calf**

#### *16.1 Vendor's warranty*

The Vendor warrants that a Heifer which is not described as having been running with the bull, or as having been served, or as being In Calf is not In Calf at the time of sale. This warranty is a 6 Month + 5 Day Warranty.

#### *16.2 Purchaser's rights*

If the Purchaser proves a breach of warranty then, at the Purchaser's option, either:

- a) he may exercise his rights under Schedule 6 but must do so before the Heifer calves and if he decides to calve the Heifer he forfeits his rights under this Condition, or
- b) the Vendor shall pay to the Purchaser a sum not exceeding any monetary loss, if any, actually sustained by the Purchaser and assessed as fair and reasonable in the circumstances by the Auctioneer.

### **17 Group of animals sold as Heifers: inclusion of an animal which has had a Calf**

#### *17.1 Vendor's warranty*

The Vendor warrants that a group of animals comprising a Lot sold as Heifers does not include an animal which has had a Calf. This warranty is an After Sale Warranty.

#### *17.2 Purchaser's rights*

If the Purchaser proves a breach of warranty in respect of an animal in a Lot he may exercise his rights under Schedule 6 in respect of the animal which has had a Calf or, at his discretion, in respect of all the animals in the Lot.

### **18 Group of animals sold as steers; inclusion of animal which is not a steer**

#### *18.1 Vendor's warranty*

The Vendor warrants that a group of animals comprising a Lot sold as steers does not include an animal which is not a steer. This warranty is an After Sale Warranty.

#### *18.2 Purchaser's rights*

If the Purchaser proves a breach of warranty in respect of an animal in a Lot he may exercise his rights under Schedule 6 in respect of the animal which is not a steer or, at his discretion, in respect of all the animals in the Lot.

## **19 Castrated cattle**

### **19.1 Vendor's warranty**

The Vendor warrants that, unless stated to the contrary in any catalogue for sale or at the time of sale, any male cattle not expressly sold as bulls:

- (a) have been castrated; and
- (b) have not been imperfectly castrated.

The warranty in Condition 19.1(a) above is an After Sale Warranty and the warranty in Condition 19.1(b) is a 14 + 5 Day Warranty.

### **19.2 Purchaser's rights**

If the Purchaser proves a breach of warranty he may exercise his rights under Schedule 6.

## **CALVES**

(other than those sold in a declared breeding sale)

## **20 Calves**

### **20.1 Vendor's warranty**

The Vendor warrants

- (a) that any Calf sold for the amount in paragraph (d) of the Appendix or more is free from any Unsoundness which can be detected by external examination. This warranty is an After Sale Warranty.
- (b) that any Calf that has to be sent for slaughter for whatever reason, even if it was not originally entered in the sale as Livestock Sold for Slaughter, complies with the terms of the Vendor's warranty set out in Condition 11 of this Schedule in the same way as if it had been so entered.

### **20.2 Purchaser's rights**

If the Purchaser proves a breach of warranty he may exercise his rights under Schedule 6.

## **DAIRY AND BEEF BREEDING CATTLE**

## **21 Maiden heifers stated to be sold for breeding purposes**

### **21.1 Vendor's warranty**

The Vendor warrants a Maiden Heifer stated in any catalogue for sale or at the time of sale to be sold for breeding purposes to be free from any malformation which would render the animal incapable of breeding. The warranty is a 5 Day Warranty if the malformation is Patent, or a 6 Month + 5 Day Warranty if the malformation is Latent.

### **21.2 Purchaser's rights**

If the Purchaser proves a breach of warranty he may exercise his rights under Schedule 6.

**22 Dairy Heifers sold as carrying their first calves**

22.1 *Vendor's warranty*

The Vendor warrants a Dairy Heifer stated in any catalogue for sale or at the time of sale as carrying her first calf to have four correct teats. This warranty is an After Sale Warranty.

22.2 *Purchaser's rights*

If the Purchaser proves a breach of warranty he may exercise his rights under Schedule 6.

**23 Dairy Heifers sold as carrying their second calves**

23.1 *Vendor's warranty*

The Vendor warrants a Dairy Cow sold as being In Calf or a Dairy Heifer sold as carrying her second Calf:

- a) to be correct in the udder and teats;
- b) not to be infected with Clinical mastitis; and
- c) not to suck any other animal

Each of the warranties in Condition 23.1(a) and Condition 23.1(b) above is an After Sale Warranty and the warranty in Condition 23.1(c) is a 5 + 5 Day Warranty.

23.2 *Purchaser's rights*

If the Purchaser proves a breach of warranty he may exercise his rights under Schedule 6.

**24 Dairy cows sold as being warranted as In Calf**

24.1 *Vendor's warranty*

The Vendor warrants a Dairy Cow sold as being Due to Calve

- a) to be correct in the udder and teats;
- b) not be infected with Clinical mastitis;
- c) not to suck any other animal
- d) not to suck herself; and
- e) to be Quiet to Milk

Each of the warranties in Condition 24.1 (a) and Condition 24.1 (b) above is an After Sale Warranty and each of the warranties in Conditions 24.1 (c), 24.1 (d) and 24.1 (e) above is a 5 Day Warranty.

24.2 *Purchaser's rights*

If the Purchaser proves a breach of warranty he may exercise his rights under Schedule 6.

## **25 Dairy Cows and Dairy Heifers sold as being in milk**

### **25.1 Vendor's warranty**

The Vendor warrants a Dairy Cow or Dairy Heifer sold as being in milk:

- a) to be correct in the udder and teats;
- b) not to be infected with Clinical mastitis;
- c) not to suck any other animal;
- d) not to suck herself; and
- e) to be Quiet to Milk

Each of the warranties in Condition 25.1 (a), and Condition 25.1 (b) above is an After Sale Warranty and each of the warranties in Conditions 25.1 (c), 25.1(d) and 25.1 (e) above is a 5 + 5 Day Warranty.

### **25.2 Purchaser's rights**

If the Purchaser proves a breach of warranty he may exercise his rights under Schedule 6.

## **26 Cows sold as new milked or newly calved**

### **26.1 Vendor's warranty**

The Vendor warrants that all calved cows or Heifers sold as new milked or newly calved have calved within 14 days before the day of sale or as declared at the time of sale and to their correct time. This warranty is a 5 Day Warranty.

### **26.2 Purchaser's rights**

If the Purchaser proves a breach of warranty then at the Purchaser's option either he may exercise his rights under Schedule 6 or the Vendor shall pay to the Purchaser as Liquidated Damages a sum equal to 33.33 per cent of the purchase price.

## **27 Cleansing**

### **27.1 Vendor's warranty**

The Vendor warrants that all newly calved cows and Heifers have cleansed satisfactorily before the sale. This warranty is a 5 day Warranty.

### **27.2 Purchaser's rights**

If the Purchaser proves a breach of warranty he may exercise his rights under Schedule 6. Any notice of a claim must be supported by a Veterinary Surgeon's Certificate.

## **28 Symptoms of abortion**

If any cow or Heifer shows symptoms of aborting before it is removed from the Sale Premises, the Purchaser may refuse to Take Delivery of the animal or, if he has already taken delivery, may return the animal to the Vendor within 5 days from the End of the Day's Sale.



## **29 Calving dates**

### **29.1 *Vendor's warranty***

The Vendor warrants that any cow or Heifer described in any catalogue for sale or at the time of sale as Due to Calve at a specific time (the "Due Date"), will calve a fully developed Calf within 21 days of the Due Date.

### **29.2 *Purchaser's rights***

If the Purchaser proves a breach of warranty:

- a) if the animal aborts on or about the Due Date and within 5 days of the date when it aborts the Purchaser gives written notice to the Auctioneer supported by a Veterinary Surgeon's Certificate then, at the option of the Purchaser, either the Purchaser may return the animal to the Vendor, or the Vendor shall pay to the Purchaser as Liquidated Damages a sum equal to 33.33 per cent of the purchase price; or
- b) if the animal calves, otherwise than prematurely, more than 21 days before the Due Date and the calving takes place during the period between and including 1st May and 30th September the Purchaser shall not be entitled to return the animal to the Vendor but if within 5 days after the calving the Purchaser gives written notice to the Auctioneer of the date upon which the calving took place, supported by a Veterinary Surgeon's Certificate confirming the date of Calving and that the calf is a normal full term Calf, the Vendor shall pay to the Purchaser as Liquidated Damages the amount in paragraph (e) of the Appendix per day for the period between the fourteenth day before the Due Date and the actual day of calving; or
- c) if the animal does not calve until more than 21 days after the Due Date then the Purchaser shall not be entitled to return the animal to the Vendor but if within 24 days after the Due Date the Purchaser gives written notice to the Auctioneer of the date on which such calving took place, supported by a Veterinary Surgeon's Certificate confirming the date of calving and that the Calf is a normal full term Calf, the Vendor shall pay to the Purchaser as Liquidated Damages the amount in paragraph (f) of the Appendix per day for the period between the fourteenth day after the Due Date and the actual day of calving; or
- d) if the animal has not calved within 42 days after the Due Date then the Purchaser shall not be entitled to return the animal to the Vendor but if within 47 days after the Due Date the Purchaser gives written notice to the Auctioneer supported by a Veterinary Surgeon's Certificate confirming that the animal is carrying a mummified Calf, the Vendor shall pay to the Purchaser as Liquidated Damages the amount in paragraph (g) of the Appendix.

### **30 Cows and Heifers sold as In Calf**

#### **30.1 *Vendor's warranty***

The Vendor warrants that a cow or Heifer described in any catalogue for sale or at the time of sale as In Calf, will calve a fully developed Calf within the given number of days stated in any catalogue for sale or as declared at the time of sale, the presence of such animal at the sale being in compliance with the then current regulations issued by DEFRA for such animals to be offered for sale.

#### **30.2 *Purchaser's rights***

If the Purchaser proves a breach of warranty:

- a) if the animal calves a prematurely born Calf within the period mentioned in 30.1 and within 5 days after the date of such premature calving the Purchaser gives written notice to the Auctioneer, supported by a Veterinary Surgeon's Certificate confirming the premature calving and its date, then, at the option of the Purchaser, either the Purchaser may return the animal to the Vendor, or the Vendor shall pay to the Purchaser as Liquidated Damages a sum equal to 33.33 per cent of the purchase price; or
- b) if the animal does not calve until more than the above mentioned number of days after the day of sale, whether the Calf shall be prematurely born or not, the Purchaser shall not be entitled to return the animal to the Vendor but if within 5 days after the date of calving the Purchaser gives written notice to the Auctioneer of the date on which such calving took place, supported by a Veterinary Surgeon's Certificate confirming the date of calving and that the Calf is a normal Calf, the Vendor shall pay to the Purchaser as Liquidated Damages the amount in paragraph (f) of the Appendix per day for the period between the above-mentioned date after the day of sale and the actual Date of Calving; or
- c) if the animal has not calved within 42 days after the day of sale then the Purchaser shall not be entitled to return the animal to the Vendor but if within 47 days after the day of sale the Purchaser gives written notice to the Auctioneer supported by a Veterinary Surgeon's Certificate confirming that the animal is carrying a mummified Calf, then the Vendor shall pay to the Purchaser as Liquidated Damages the amount in paragraph (h) of the Appendix.

### **31 Animals sold as In Calf but proving barren**

#### **31.1 *Vendor's warranty***

- a) The Vendor warrants that any cow or Heifer sold as being In Calf is in calf at the time of sale.

This warranty is a 38 + 5 Day Warranty.

- b) Where a cow or Heifer is sold as 'having run with a bull' no warranty as to the animal being In Calf at the time of sale is given.

#### **31.2 *Purchaser's rights***

If the Purchaser proves a breach of warranty within a reasonable period of time after the date of sale he may exercise his rights under Schedule 6. Notice of a claim must be supported by a Veterinary Surgeon's Certificate.

## **32 Suckler Cows**

### **32.1 *Vendor's warranty***

The Vendor warrants that any cow or Heifer described in any catalogue of sale or at the time of sale as suckling a Calf:

- a) suckles that Calf in a natural manner;
- b) that the Calf was born to that cow and has not been fostered on to her;
- c) unless stated to the contrary:
  - i. is correct in the udder
  - ii. is not infected with Clinical mastitis;
  - iii. does not suck any other animal; and
  - iv. does not suck herself

The warranty in Condition 32.1 (c)(ii) above is an After Sale Warranty, the warranty in Condition 32.1 (a) above is a 5 Day Warranty and each of the warranties in Conditions 32.1 (c) (ii), (iii) and (iv) is a 5 + 5 Day Warranty.

### **32.2 *Purchaser's rights***

If the Purchaser proves a breach of warranty he may exercise his rights under Schedule 6. Notice of a claim must be supported by a Veterinary Surgeon's Certificate.

## **33 Milking-out of cows before and after sale**

33.1 All cows in milk shall be milked out not earlier than the evening before the day of sale and no cow shall be accepted for sale by the Auctioneer if this Condition has not been met by the Vendor.

33.2 No cow in milk shall be removed from the Sale Premises until she has either been milked out by the Purchaser or, if she remains unsold by the Vendor, or, until her udder has been sufficiently eased to avoid discomfort to her.

33.3 Unless the Purchaser or the Vendor (as the case may be) wishes to milk a cow himself any cow on the Sale Premises shall be milked only by a competent person approved by the Auctioneer in which case the milk shall belong to the Auctioneer.

## **34 Embryo transfer and Caesarean operation**

### **34.1 *Vendor's warranty***

The Vendor warrants that, unless otherwise stated in any catalogue for sale or at the time of sale, no dairy or beef animal has been subjected to the technique of embryo transfer or Caesarean operation. This warranty is a 6 Months + 5 Day Warranty.

### **34.2 *Purchaser's rights***

If the Purchaser proves a breach of warranty he may exercise his rights under Schedule 6.

## STOCK BULLS

### 35 Stock bulls

#### 35.1 *Vendor's warranty*

The Vendor warrants that any bull 10 months old or over sold as a stock bull is capable of natural service. This warranty is a 16 Week Warranty.

#### 35.2 *Purchaser's rights*

If the Purchaser proves a breach of warranty the Purchaser may return the bull to the Vendor who shall, at the Purchaser's option, either replace the bull with another bull of equal value which is capable of natural service, or refund the purchase price together with such other costs and charges as the Purchaser may be entitled to under these Conditions.

For the avoidance of any doubt if the Purchaser obtains viable semen from the bull for use by artificial insemination he shall not be entitled to any claim against the Vendor for breach of warranty.

Notice of a claim must be supported by a Veterinary Surgeon's Certificate confirming that:

- a) the bull's inability incapacity or ineffectiveness is not the result of injury, accident or illness happening after the time of the sale; and
- b) the Purchaser's breeding stock are not responsible for the bull's inability incapacity or ineffectiveness.

## SCHEDULE 2 – SHEEP

### 36 Definitions

In this Schedule the words or expression:

"In Lamb" or "Due to Lamb" means any female sheep carrying a lamb but shall not imply that any lamb due will be born alive

and, where the female sheep is stated to be In Lamb or Due to Lamb to a named ram the Vendor shall provide the Auctioneer with details of the ram, his ear tag number and any breed society registration number together with such, if any, further information that may be required of him, such information to be included in any catalogue for the sale and announced at the sale

### 37 Female sheep

#### 37.1 *Vendor's warranty*

Each female sheep is warranted not to be In Lamb at the time of sale. This warranty is a 14 weeks and 5 Day Warranty.

37.2 *Purchaser's rights*

If the Purchaser proves a breach of warranty the Vendor shall pay to the Purchaser as Liquidated Damages a sum equal to 33.33 per cent of the purchase price.

Notice of a claim must be supported by a Veterinary Surgeon's Certificate or a slaughter-house manager's or other competent person's certificate confirming the sheep to have been In Lamb for a period of at least 12 weeks on the day of sale.

**38 Female sheep not described as In Lamb**

38.1 *Vendor's warranty*

The Vendor warrants that a female sheep not described in any catalogue for sale or at the time of sale as In Lamb is not In Lamb at the time of sale. This warranty is a 14 Week + 5 Day Warranty.

38.2 *Purchaser's rights*

If the Purchaser proves a breach of warranty then, at the Purchaser's option, either the Purchaser may exercise his rights under Schedule 6, or the Vendor shall pay to the Purchaser as Liquidated Damages a sum equal to the amount in paragraph (i) of the Appendix. Notice of a claim must be supported by a Veterinary Surgeon's Certificate or a slaughterhouse manager's or other competent person's certificate confirming that the sheep was In Lamb

**39 Female sheep described as correct**

39.1 *Vendor's warranty*

The Vendor warrants that all female sheep described in the catalogue or at the time of sale as correct are sound in mouth and udder, that is they are not lacking any of the 8 broad teeth and do not have any damaged or worn teeth or a defective udder. This warranty is a 5 Day Warranty.

39.2 *Purchaser's rights*

If the Purchaser proves a breach of warranty then, at the Purchaser's option, either the Purchaser may exercise his rights under Schedule 6, or the Vendor shall pay to the Purchaser as Liquidated Damages a sum equal to the amount in paragraph (i) of the Appendix. Notice of a claim must be supported by a Veterinary Surgeon's Certificate.

**40 Female sheep proving barren**

40.1 *Vendor's warranty*

The Vendor warrants that any female sheep sold as being In Lamb is In Lamb at the time of sale. This warranty is a 21 Day Warranty.

40.2 *Purchaser's rights*

If the Purchaser proves a breach of warranty he may exercise his rights under Schedule 6. Notice of a claim must be supported by a Veterinary Surgeon's Certificate.

## **41 Ewes with lambs at foot**

### **41.1** *Vendor's warranty*

The Vendor warrants that, unless stated to the contrary in any catalogue for the sale or at the time of sale, in a Lot in which the ewes are described as with lamb or with lambs at foot every ewe is suckling one or more lambs, and every lamb has a mother in the Lot. This warranty is a 5 Day Warranty.

### **41.2** *Purchaser's rights*

If the Purchaser proves a breach of warranty he may exercise his rights under Schedule 6 in respect of any ewe which does not have a lamb or any motherless lamb.

## **42 Castrated sheep**

### **42.1** *Vendor's warranty*

The Vendor warrants that, unless stated to the contrary in any catalogue for sale or at the time of sale, any male sheep not expressly sold as rams:

- a) have been castrated; and
- b) have not been imperfectly castrated.

The warranty in Condition 42.1 (a) is an After Sale Warranty and the warranty in Condition 42.1 (b) is a 14 + 5 Day Warranty.

### **42.2** *Purchaser's rights*

If the Purchaser proves a breach of warranty then, at the Purchaser's option, either he may exercise his rights under Schedule 6, or the Vendor shall pay to the Purchaser as Liquidated Damages a sum equal to 33.33 per cent of the purchase price of the sheep concerned. If other sheep had been sold in the Lot the compensation payment shall be calculated on the basis of the average price per head of all animals in the Lot.

## **43 Stock rams**

### **43.1** *Vendor's warranty*

The Vendor warrants that any ram sold as a stock ram for the amount in paragraph (j) of the Appendix or more is capable of natural service.

This warranty is a 10 Week Warranty.

### **43.2** *Purchaser's rights*

If the Purchaser proves a breach of warranty the Purchaser may return the ram to the Vendor who shall, at the Purchaser's option, either replace the ram with another ram of equal value which is capable of natural service, or refund the purchase price together with such other costs and charges as the Purchaser may be entitled to under these Conditions.

For the avoidance of any doubt if the Purchaser is able to obtain viable semen from the ram for use by artificial insemination he shall not be entitled to any claim against the Vendor for breach of warranty.

Notice of a claim must be supported by a Veterinary Surgeon's Certificate confirming that:

- a) the ram's inability incapacity or ineffectiveness is not the result of injury, accident or illness happening after the time of the sale; and
- b) the Purchaser's breeding stock are not responsible for the ram's inability incapacity or ineffectiveness.

## **SCHEDULE 3 – PIGS**

### **44 Definitions**

In this Schedule unless the context otherwise requires the words and expressions set out on the left-hand side of the page shall have the meanings set out opposite them:

"Gilt" - a young sow which has not reached the end of her first natural lactation;

"In Pig" or "Due to Pig" - carrying a piglet but shall not imply that any piglet due will be born alive,

and, where it is stated to be In Pig or Due to Pig to a named boar the Vendor shall provide the Auctioneer with details of the boar, his ear tag number and any breed society registration number together with such, if any, further information that may be required of him, such information to be included in any catalogue for the sale and announced at the sale.

## **STORE PIGS AND BREEDING PIGS**

### **45 Barren sows and gilts**

#### *45.1 Vendor's warranty*

The Vendor warrants that any sow or Gilt described in any catalogue for sale or at the time of sale as barren, empty or free from pig is not In Pig at the time of sale. This warranty is a 6 Week Warranty.

#### *45.2 Purchaser's rights*

If the Purchaser proves a breach of warranty the Vendor shall pay to the Purchaser as Liquidated Damages a sum equal to 33.33 per cent of the purchase price. Notice of a claim must be supported by a Veterinary Surgeon's Certificate.

## **46 Sows or gilts sold In Pig**

### **46.1 *Vendor's warranty***

The Vendor warrants that any sow or Gilt described in any catalogue for sale or at the time of sale as In Pig but without a farrowing or service date given is In Pig at the time of sale. This warranty is a 6 Week Warranty.

No warranty is given where a sow or Gilt is described only as having been running with a boar.

### **46.2 *Purchaser's rights***

If the Purchaser proves a breach of warranty then the Vendor shall pay to the Purchaser as Liquidated Damages a sum equal to 33.33 per cent of the purchase price. Notice of a claim must be supported by a Veterinary Surgeon's Certificate.

## **47 Sows or gilts with a farrowing or service date**

### **47.1 *Vendor's warranty***

The Vendor warrants that any sow or Gilt described in any catalogue for sale or at the time of sale as Due to Pig at a specified time or with its service date stated, is In Pig at the time of sale. If the sow or Gilt does not pig until after the Due Date, the Purchaser shall have a claim for breach of warranty. This warranty is a 3 week + 5 Day Warranty where the animal is described as Due to Pig at a specified time and a 19 Week + 5 Day Warranty where the animal's service date is stated provided that in both cases the period of warranty is measured not from the date of sale but from the specified time in the case of the 3 Week + 5 Day Warranty and from the service date in the case of the 19 Week + 5 Day Warranty.

No warranty is given where a sow or Gilt is described only as having been running with a boar.

### **47.2 *Purchaser's rights***

If the Purchaser proves a breach of warranty the Vendor shall pay to the Purchaser as Liquidated Damages the amount in paragraph (k) of the Appendix for each complete week from the third week after the Due Date until the actual date of farrowing.

Notice of a claim must be supported by a Veterinary Surgeon's Certificate confirming the actual farrowing date.



**48 Stock boars**

48.1 *Vendor's warranty*

The Vendor warrants that any boar sold as a stock boar for the amount in paragraph (j) of the Appendix or more is capable of natural service.

This warranty is a 10 Week Warranty.

48.2 *Purchaser's rights*

If the Purchaser proves a breach of warranty the Purchaser may return the boar to the Vendor who shall, at the Purchaser's option, replace the boar with another boar of equal value which is capable of natural service, or refund the purchase price of the animal together with such other costs and charges as the Purchaser may be entitled to under these Conditions.

For the avoidance of any doubt if the Purchaser obtains viable semen from the boar for use by artificial insemination he shall not be entitled to any claim against the Vendor for breach of warranty.

Notice of a claim must be supported by a Veterinary Surgeon's Certificate confirming that:

- a) the boar's inability incapacity or ineffectiveness is not the result of injury, accident or illness happening after the time of the sale; and
- b) the Purchaser's breeding stock are not responsible for the boar's inability incapacity or ineffectiveness.

## **SCHEDULE 4 – HORSES AND PONIES**

In this Schedule any reference to a "Horse" shall include a reference to any pony or foal

**49 General**

49.1. No Horse is allowed in the Sale Premises unless it has been pre-entered for the sale and all entry fees (if applicable) have been paid in full ("the Entry Fee") to the Auctioneer and any Vendor or other person attempting to enter the Sale Premises with a Horse that is not entered or in respect of which the Entry Fee has not been paid shall be refused access to the Sale Premises even if he has another Horse entered in the sale.

49.2 Every Horse must be accompanied to the sale with a DEFRA approved current passport which must be handed in to the Auctioneer immediately on arrival at the Sales Premises. No Horse regardless of its age will be allowed onto the Sales Premises without a current passport.

49.3 It is the responsibility of the Vendor prior to any sale and the Purchaser after a sale to provide water and forage to the Horse whilst it is on the Sales Premises.

- 49.4 In the event that a Horse is registered with a breed society its breed registration certificate must also be lodged with the Auctioneer on arrival at the Sale Premises together with the current passport and if any such certificate is not provided to the Auctioneer the Horse shall be sold without the benefit of registration.
- 49.5 It is the responsibility of the Purchaser to register a Horse he has purchased with the appropriate breed society. In a case where the registration of a Horse has been applied for by a Vendor he must lodge the acknowledgment card(s) with the Auctioneer and where a Horse is eligible for registration the Vendor must pass the appropriate application forms to the Auctioneer on arrival at the Sales Premises to be passed on to the Purchaser if the Horse is sold. If the Horse is not sold the paperwork will be returned to the Vendor.
- 49.6 A Vendor must supply a serviceable head collar with each Horse and this will remain with the Horse after it has been sold. It is the responsibility of the Purchaser to supply a lead rope.
- 49.7 It is the responsibility of the Vendor to lead his Horse into the sale ring and not that of the Auctioneer.
- 49.8 A Horse born after 1 July 2009 must be fitted with a readable micro-chip which will be scanned on arrival at the Sales Premises and must match the details set out on the current passport for the Horse before it will be accepted for the sale notwithstanding that it has been advertised in any catalogue for the sale.
- 49.10 Unless a Horse is to be offered for sale without warranty it must be free from vice, quiet in the stable, to catch, load and shoe unless otherwise declared. Latent defects such as crib biting, wind sucking, head shaking, sarcoids and sarcoid like lesions, un-nerving and it must also be stated that if a Horse has been fired, tubed or hobdayed unless it is to be sold without warranty.
- Any complaints regarding Patent defects such as splints, curbs, sidebones and similar will not be entertained unless they cause the Horse to be lame. Sweet itch, being a condition, is not covered by the general warranty.
- 49.11 A Vendor must declare if a Horse is not eligible for the human food chain and that information must be clearly shown on its current passport.
- 49.12 For the avoidance of any doubt the provisions of Condition 6 relating to the Conduct of Sales applies to all sales of Horses as they do to all other livestock.

## **50 Warranties**

### **50.1 *Soundness***

All Horses offered for sale by the Vendor must be sound in wind, eyes and action free from any medical conditions and healthy in every way. Any previous medical conditions must be stated even if resolved. In the event that any Horse is not so warranted it will be sold as seen.

An unbroken Horse can be warranted sound.

50.2 *Suitability*

In the case of any Horse that has a reserve placed on it of £300 or more or which sells for more than that sum the following suitability warranties must be given:

- 50.2.1 a Horse warranted as a Hunter must be quiet to ride in traffic, have been hunted and capable of being hunted;
- 50.2.2 a Horse warranted as a Hack must be quiet to ride and quiet in traffic and be capable of being ridden as a hack;
- 50.2.3 a Horse warranted as quiet to ride must be quiet to ride in traffic and be capable of being ridden;
- 50.2.4 a Horse warranted as quiet to drive must be quiet in traffic and be capable of being driven; and,
- 50.2.5 a Horse warranted as a Hunter, a Hack, quiet to ride or quiet to drive must be capable of being managed and ridden/driven by a reasonably experienced person of an age, size, weight and strength appropriate to the size of the Horse.

50.3 *Warranty period*

The Purchaser has until 12 noon on the Monday following the sale to contact the Auctioneer and notify him that any warranty placed on the Horse he has purchased has not been complied with. In the case of an alleged breach of the warranty of soundness the Purchaser must supply a Veterinary Surgeon's Certificate to verify the alleged breach. In the case of unsuitability such notification must be accompanied by a detailed report from a Veterinary Surgeon as to why the Purchaser believes the Horse to be unsuitable.

50.4 *Additional issues relating to Warranties*

- 50.4.1 A Horse that is a wind-sucker, weaver or rig and one that has been tubed, unnerved or operated on for unsoundness of any kind must be so described.
- 50.4.2 A Horse that is a wind-sucker (i.e. habitually swallows air whether in association with grasping objects with incisor teeth or not) must be so described.
- 50.4.3 A crib-biter need only be described if the crib-biting is associated with wind-sucking.
- 50.4.4 Any thoroughbred Horse that is on the forfeit list with Weatherby's/The Jockey Club or that has run at an unrecognized race meeting must be so described.
- 50.4.5 Any Horse that is in foal or believed to be in foal at the time of sale must be so described and if not so described and is subsequently found to be in foal within 56 days of the date of the sale then it is returnable to the Vendor at the Purchaser's discretion.

For the avoidance of doubt the general description of each Horse and details of age, height and colour do not constitute a warranty but the details of the age of the Horse must correspond with the details given on the current passport or breed society registration certificate applicable to the Horse.

**51 Horses sold without warranty – ‘Sold as Seen’**

If a Horse is to be sold without any of the warranties set out above it must be stated on the entry form for the sale that this Horse is sold as seen. In this case the Purchaser has no recourse against the Vendor under any of the above warranties.

**52 Disputes**

- 52.1 Only a warranty of soundness or suitability can be disputed.
- 52.2 No dispute will be entertained by the Auctioneer until the Purchaser has paid for the Horse that is the subject of the dispute.
- 52.3 Any such dispute must be notified to the Auctioneer within the time scale set out in Condition 50.3.
- 52.4 If the complaint is upheld by the Auctioneer the Horse shall be returned to the Vendor at the Purchaser’s expense within 48 hours of the Auctioneer’s decision.
- 52.5 If a Vendor and Purchaser do not agree with the Auctioneer’s decision the dispute shall be submitted to the arbitration of either a suitably qualified Veterinary Surgeon (in the case of a complaint of unsoundness) or a suitably qualified person (in the case of a complaint of unsuitability). At the Auctioneer’s sole discretion the person appointed will be an arbitrator.
- 52.6 Unless the procedure set out in Condition 52.5 is followed the Purchaser will be required to keep the Horse with all the alleged faults and will have no claim for damages or otherwise against the Vendor or the Auctioneer in respect of the Horse.
- In the event of the appointment of an arbitrator his decision shall be final and binding on both parties and the costs of the arbitration and any other associated costs shall be determined by the arbitrator and set out in his award.
- 52.7 If the decision of the Auctioneer or the arbitrator (as the case may be) is in favour of the Purchaser the sale of the Horse shall be annulled and the Purchaser shall be able to return the Horse to the Vendor and receive back the purchase price (without interest) but will not be entitled to the payment of any expenses incurred in the return of the Horse or in connection with the sale to him. The party against whom any decision/award is made shall be responsible for paying all the expenses reasonably incurred by the Auctioneer or the arbitrator (as the case may be) in connection with the dispute including (but without prejudice to the generality of this sub clause) the costs associated with any examination or inquiry and the fees of any person or persons appointed by the Auctioneer to decide on the dispute or to make any enquiry or examination (as the case may be)

## SCHEDULE 5 – POULTRY AND RABBITS

### PART 1 – POULTRY

#### 53 General

- 53.1 The Auctioneer reserves the right to refuse to accept any poultry which he considers unsaleable and to dispose of any which do not attract a bid, which are not removed by the Vendor immediately after the sale, and to charge the Vendor such fee as the Auctioneer in his discretion deems reasonable for its removal and disposal.
- 53.2 No single cockerels or pens of cockerels or shamo, asil or the like will be accepted for sale.
- 53.3 Single drakes of domestic breeds will only be accepted for sale at the Auctioneer's discretion.
- 53.4 Eggs entered into a poultry sale are for hatching and by entering them in the sale the Vendor warrants that they are both fresh and fertile.
- 53.5 No chicks or ducklings should be entered on their own (ie without a broody) until fully feathered.
- 53.6 Any wildfowl entered for sale must be described as either pinioned or wing clipped.
- 53.7 The Vendor guarantees that all birds entered in any sale are bred from birds that are legally kept in captivity.
- 53.8 All poultry entered for sale must be of the sex described and mixed sex Lots must be as described so that a trio comprises one cockerel and two hens.
- 53.9 Poultry for breeding which are in mixed sex Lots must be unrelated.
- 53.10 All poultry being transported to and from the Sale Premises must be transported in suitable carrying boxes or crates.
- 53.11 All poultry are warranted by the Vendor as being in good health and disease free.
- Purchaser's Rights*
- 53.12 In the event of any dispute between the Vendor and the Purchaser it shall be referred in the first instance to the Auctioneer and if the parties are not satisfied with his decision it will then proceed in accordance with the provisions of Schedule 6.

### PART 2 – RABBITS

#### 54 General

##### *Vendor's Warranty*

- 54.1 Any young rabbits sold without their doe are warranted weaned.
- 54.2 Groups of rabbits sold together are sold as mixed sex unless specifically warranted as all bucks or all does.
- 54.3 A breeding pair is warranted as being one of each sex.

##### *Purchaser's Rights*

- 54.4 In the event of any dispute between the Vendor and the Purchaser it shall be referred in the first instance to the Auctioneer and if the parties are not satisfied with his decision it will then proceed in accordance with the provisions of Schedule 6.

## **SCHEDULE 6 – WARRANTY RIGHTS AND RETURN OF STOCK**

### **55 Failure of Purchaser to comply with Conditions**

- 55.1 If the Purchaser does not comply with the Conditions in this Schedule he shall be bound to keep the animal concerned with all faults and shall have no claim for damages or otherwise against the Vendor or any other person in respect of the sale.
- 55.2 The Purchaser may not sustain any claim under these Conditions unless he has paid the purchase money in full before the claim is made.

### **56 Faults and errors of description**

Except as expressly provided in these Conditions there shall be no condition or warranty, otherwise than as to title, in regard to any Lots sold and the Purchaser shall Take Delivery of each Lot with all faults, imperfections and errors of description.

### **57 Remedy for breach of warranty, other than the Warranty of Title**

- 57.1 Except where otherwise expressly provided, the breach of any warranty in these Conditions shall give the Purchaser a right to refuse to Take Delivery of or to return the animal in accordance with these Conditions and to recover such reasonable costs and charges as he may be entitled to under these Conditions, but shall give him no right to claim damages from the Vendor in lieu of exercising such right of refusal or return. A Purchaser is entitled to the remedies set out in these Conditions, but to no others.
- 57.2 No claim by a Purchaser under these Conditions shall be valid unless the Purchaser first notifies the Auctioneer in the manner and within the time prescribed set out in these Conditions.
- 57.3 Where under these Conditions the Purchaser has the option of returning an animal or claiming damages then, unless within 3 days after first notifying the Auctioneer or the Vendor of his claim he either returns the animal to the Auctioneer or, as the Auctioneer may direct, to the Vendor or gives notice in writing to the Auctioneer and the Vendor of his intention to return the animal and of his willingness to comply with any directions which may be given to him regarding the return of the animal, the Purchaser shall be taken to have elected to claim damages and to have waived any right to return the animal.
- 57.4 Where under these Conditions the Purchaser's sole remedy is to return the animal it shall be returned within 3 days of any request to do so by the Auctioneer.

### **58 Procedure in cases of contested claims for breach of warranty**

- 58.1 No claim by a Purchaser that an animal does not comply with any warranty, other than any Warranty of Title, shall be valid unless:
- a) the Purchaser notifies the Auctioneer in the manner and within the time prescribed in these Conditions and provides any Veterinary Surgeon's Certificate or other person's certificate or opinion required by these Conditions; and
  - b) in a case where the Purchaser claims the right to reject an animal on the ground that its physical condition constitutes a breach of warranty and the Vendor calls for a Veterinary Surgeon's Certificate the Purchaser provides that certificate within such reasonable period as the Auctioneer may specify.

- 58.2 Notwithstanding any other provision of these Conditions, where by these Conditions any Veterinary Surgeon's Certificate or other person's certificate or opinion must be provided within any specified period the Auctioneer may, either before or after the expiration of the specified period, allow such further time for the delivery of the certificate or opinion as he may in his sole discretion think fit and where the certificate or opinion is provided within that further time the Purchaser's claim shall be as effective as if the certificate or opinion had been provided within the specified period.
- 58.3 If the Vendor disputes the Purchaser's claim for breach of warranty, the claim shall be referred for decision to the Auctioneer or to such other person as the Auctioneer may appoint for the purpose if both parties agree and in the absence of such agreement the appointment shall be referred to the executive board of the Livestock Auctioneers Association whose decision shall be final (in either case the person so appointed shall be called the "Referee"). The Referee, who shall act as an independent expert and not as an arbitrator, shall make such examination or trial of the animal and such inquiry of such persons as in his sole discretion he considers necessary or desirable for determining the dispute.
- 58.4 The decision of the Referee on any matter referred to him, which shall include the question whether any disease is or is not, whether by reason of its temporary character or otherwise, such as to constitute a breach of warranty, and on whether any animal which is to be returned shall be returned to the premises of the Vendor or of the Auctioneer, shall be final and binding on both Vendor and Purchaser provided that if either the Vendor or the Purchaser so requests in writing within 14 days after the decision the Referee shall within 21 days after receiving such a request put his decision in writing and send a copy to each of the Vendor and the Purchaser.
- 58.5 The party against whom any decision is given shall pay all reasonable expenses incurred by the Auctioneer in connection with it, including the costs of any examination or inquiry and the fees of any person appointed by the Auctioneer to give any decision or to make any examination, trial or inquiry.

## **59 Return of livestock**

- 59.1 Where a Purchaser exercises his right under these Conditions to refuse to Take Delivery of any animal or to return it to the Vendor he shall be entitled to the return of such part of the purchase money as he has paid (and need not pay any part of it which he has not paid) and to a refund of the reasonable costs and expenses incurred by him in obtaining any Veterinary Surgeon's Certificate or other person's certificate or opinion which he is required to provide under these Conditions in order to exercise his right.
- 59.2 Where a Purchaser exercises his right to return an animal he shall do so at his own expense but the Vendor shall pay to the Purchaser the reasonable costs and charges of the transit of such animal to and from the Purchaser's premises and, in the case of an animal which has been on the Purchaser's premises the reasonable cost of its keep, AND, where a Purchaser cannot return an animal due to the 6 day standstill rules, bTB movement restrictions or other health or statutory restrictions the Vendor will refund to the Purchaser 33.33 per cent of the purchase price of the animal in full and final settlement of his claim.

- 59.3 Should the Purchaser of any animal return it without being entitled by these Conditions to do so he shall pay the Auctioneer and the Vendor all costs, expenses and damages which they may respectively sustain or incur as a consequence.
- 59.4 The monies produced by the re-sale, after deducting the costs and charges of and attending the re-sale, a reasonable sum for the feed and care of the animal pending re-sale and any Veterinary Surgeon's charges necessarily or reasonably incurred, shall be held by the Auctioneer on behalf of the person who proves to be entitled to them, or may be paid into court under interpleader proceedings.
- 59.5 If the monies produced by the re-sale are insufficient to cover the costs and charges referred to in Condition 59.4 the Auctioneer shall be entitled to recover the shortfall from the person who was the owner of the animal immediately before its re-sale.
- 59.6 If a Veterinary Surgeon certifies that any animal returned to the Auctioneer's premises is suffering from disease or any other defect and in consequence ought to be slaughtered, the Auctioneer may, after taking all reasonable steps to notify the Purchaser and Vendor, cause the animal to be slaughtered and shall be entitled to recover from the person who is the owner of the animal at the time when it is slaughtered the Veterinary Surgeon's charges and a reasonable sum for the feed and care of the animal and its slaughter.



# APPENDIX

The following figures and amounts apply for the purposes of the Conditions stated as if set out in the Conditions to which they relate:

- a) Condition 3.1 (a)- £300.00
- b) Condition 3.1 (b)- £30.00
- c) Condition 39.2 – any breed of sheep under £25.00
- d) Condition 20.1 - £30.00
- e) Condition 29.2 (b) - £1.00 per day
- f) Conditions 29.2 (c) & 30.2 (c)- £1.00 per day for any day between and including 1st May and 30th September, or £2.00 per day for any day between and including 1st October and 30th April
- g) Condition 29.2 (d) - for an animal for which the Due Date is in the period between and including 1st April and 30th September, a sum equal to 25 per cent of the purchase price; or for an animal for which the Due Date is in the period between and including 1st October and 31st March a sum equal to 33.33 per cent of the purchase price
- h) Condition 30.2 (c) - for an animal warranted to calve in the period between and including 1st April and 30th September, a sum equal to 10 per cent of the purchase price; or for an animal warranted to calve in the period between and including 1st October and 31st March, a sum equal to 15 per cent of the purchase price
- i) Conditions 38.2 & 39.2 - 54.2 40 per cent of the purchase price up to and including a purchase price of £25.00 per head; 50 per cent of the purchase price for a purchase price over £25.00 per head up to and including a purchase price of £50.00 per head; and 66 per cent of the purchase price for a purchase price over £50.00 per head, in each case calculated on the average purchase price per head of the animals in the Lot
- j) Conditions 44.1 & 48.1 - £100.00
- k) Condition 47.2 - £3.00 each complete week up to a maximum of £30.00