

**CLARE MARTS LTD.,**  
**QUIN ROAD, ENNIS, CO. CLARE.**

# **CONDITIONS OF SALE**

**General Notice:**

Every Seller, Bidder, Purchaser and the General Public on the Auctioneers' premises shall be deemed to have full knowledge of these Conditions and agree to be bound by them.

**Conditions:-**

(1) Entry of Livestock

- (a) The Auctioneers do not bind themselves to receive all stock consigned to them for sale, or if received to expose them for sale, and they do not guarantee that stock advertised will be sold.

The Auctioneers, as a Co-operative Society, shall be empowered to refuse to accept for sale livestock submitted by a person who is not a member as to enable livestock submitted, subsequently by a member of the Society to be accepted for entry.

- (b) The order of sale shall be determined by the Auctioneers, by ballot or otherwise, as they deem expedient, and the stock to be exposed for sale shall be described by the Auctioneers at the time of exposure.

(2) Transfer of Ownership

- (a) Each lot shall be at the Seller's risk from the time it enters the Auctioneers premises, until sold.
- (b) Sale of the stock shall be deemed to take place at the fall of the hammer.
- (c) Each lot shall be at the Purchaser's risk from the fall of the hammer.

(3) Bidding for Stock

- (a) The Auctioneers reserve the right to refuse to accept the bids of any person without giving any reason.
- (b) The highest accepted bid shall be the purchaser, subject to the right of the Auctioneers to withdraw any lot for which the bidding is considered insufficient.

- (c) Should any dispute arise between two or more bidders, the lot in dispute shall be up again and resold, or the Auctioneers may declare the Purchaser.
- (d) No person shall advance on any bidding less than a sum to be named by the Auctioneers, and no bidding shall be withdrawn.
- (e) No seller, or seller's representative, shall bid for the seller's own stock
- (f) The Auctioneers reserve the right to fix a reserve price, or to rearrange, consolidate or withdraw any lots to vary the order of sale.

#### (4) Private Sales

- (a) If a person who has entered a lot for sale sells that lot privately after being exposed for Auction on the day of Sale and within the sale premises, these Conditions shall, so far as applicable, govern that private sale. Private Sales prior to Auctioning shall be prohibited.
- (b) In any such case the seller and the purchaser shall book the transaction with the Auctioneers and the purchase money shall be payable to them in full.
- (c) The Auctioneers reserve the right to charge and recover the whole of the commission which would have been payable if the lot had been sold at auction for the price obtained on the private sale, and if they exercise that right they shall be entitled to deduct the commission before accounting to the seller.
- (d) If a seller fails to comply with the provisions of paragraph (b) of this condition, he shall be liable to pay the relevant commission to the Auctioneers.

#### (5) Name and Title of Owner / Agents

- (a) Disclosure of Owner's Name: Sale for Disclosed Principal.  
Each lot shall be entered in its owner's name and the name of the owner of each lot as given to the Auctioneers shall be declared by them, if required, when the lot is put up for sale; and whether or not a purchaser takes advantage of such an opportunity for obtaining information the auctioneers shall for all purposes be deemed to sell as agents for a disclosed principal.
- (b) Principal and Agent: Joint and Several Liability  
Where animals are offered for sale by a person who is an agent, he shall 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 under the contract of sale and any steps authorised by these Conditions or by the general law may be taken against either or both of them.

(c) Warranty of Title:

All lots are accepted for sale on the terms that the seller warrants his right to sell the same and undertakes to indemnify the Auctioneers against all actions, proceedings claims, demands, costs, charges and expenses to which they may be exposed or which they may incur by reason of any defect in the seller's title.

(d) In declaring the owner and the person in whose name the herd or flock from which each animal is being offered for sale is registered, the testing history regarding each animal and the identity of the seller of each animal, the auctioneers have relied solely on such representation made to them by the seller and they accept no responsibility or liability for the accuracy or otherwise of the identification of the seller and testing information for animals and whether the seller is a dealer or is not a dealer is required to be placed on view pursuant to the Livestock Marts Act 1967 (date of test and identification of seller) Regulations 2002 (S.I. 188 of 2002)

(6) Purchaser / Risk:

(a) Each lot shall be at the purchaser's risk from the time of purchase.

(b) The purchaser shall, if and when required, give his name and address to the Auctioneers and shall pay to the Auctioneers the full purchase money plus commission for each lot purchased immediately on the fall of the hammer and before the end of the sale. Payment shall be by cash, cheque, Advised cheque, or Bank Draft, at the discretion of the Auctioneers.

(7) Transfer of Stock to a Sub-Purchaser

If before a purchased animal is removed from the sale premises the purchaser resells it to some other person and notifies the Auctioneers of the name and address of the sub-purchaser, then for the purposes of these Conditions or such of them as remain applicable the sub-purchaser shall be entitled to all the rights and be subject to all the obligations of the original purchaser accordingly but without prejudice to the right of the seller and of the Auctioneers as agents for the seller to hold the original purchaser liable and to pursue all lawful remedies against him, in the event of the sub-purchaser not fulfilling any of those obligation.

(8) Agents:

Where a person whose bid is accepted is in fact acting as an agent he shall if so required by the Auctioneers be bound to disclose the name and a address of his principal and in such a case both the principal and the agent shall be jointly liable under the contract of sale and any steps authorised by these Conditions or by the general law may be taken against either or both of them.

Where the Agent discloses the name of the Principal the Auctioneers are not obliged to seek payment from the principal, and the Agent remains liable for payment. If the principal defaults with payment then responsibility for payment remains with the person who purchases the stock in the sales ring.

(9) Descriptions / Pedigrees:

The Society accepts no responsibility for any error in description or weight of any lot exhibited in the ring or pens and shall be under no liability whatsoever, whether direct or consequential, to Sellers, Bidders, Purchasers or Sub-Purchasers for same howsoever arising.

Descriptions and pedigrees are supplied by the sellers who alone are responsible for their accuracy. The descriptions are believed to be correct but if any error, mis-statement or omission be discovered therein same shall not necessarily annul the sale not shall any compensation be allowed therefore. In the event of a dispute the purchaser's redress, if any, shall be against the seller and the seller's remedy shall be against the purchaser, and not against the Auctioneers who act as agents between the seller and the purchaser.

(10) Warranty of Soundness:

All lots will be sold as being of sound health at the time of sale but no warranty express or implied, is given with any animal unless expressly stated. Should the buyer discover a serious defect in any animal and duly report the said defect to the auctioneers within one hour of the end of the auction the seller shall be responsible. If the dispute cannot be resolved between buyer and seller the auctioneers reserve the right to obtain the opinion of a veterinary surgeon. The verdict of the Veterinary Surgeon selected by the Auctioneers shall be considered final and sellers and purchasers must abide by such decision. The expenses of the Veterinary Surgeon shall be borne by the loser in each instance. No

complaints will be entertained unless received within one hour of the end of the auction.

(11) Failure to pay for Stock

If any person fails to pay for any lot purchased by him the Auctioneers may:-

- (a) either by themselves or their agents to retain the lot at the Purchasers sole risk until payment, and for the period of such non-payment shall have a lien upon the lot for all expenses including freight incurred by them or their agent in keeping, maintaining, treating or otherwise dealing with the lot. Such lien shall not be lost by reason of the fact that the lot is kept elsewhere than on the premises of the Auctioneers.
- (b) To resell the lot at any time by private or public sale and the deficiency, if any together with all costs and charges attending such re-sale shall be immediately made good by the person failing to pay. Such re-sale shall be without warranty or reserve and without notice to the purchaser.

(12) Removal of Stock:

- (a) No lot shall be allowed to leave the salesyard without a written order or a pass-out from the Auctioneers.
- (b) Prior to removal, the purchaser must ensure that the stock are fully in order.

**GENERAL CONIDITIONS**

(13) Liability of Auctioneers / Unsoundness / Descriptions

- (a) The Auctioneers act in all respects only as agents for the seller and it shall be deemed that no condition or warranty expressed or implied has in any circumstances been given by the Auctioneers or any servant of the Auctioneers, whether as title, description, the quality or merchantability of any lot sold or otherwise. The Auctioneers and their servants shall not incur any liability to the purchaser in respect of any announcement or statement relating to or affecting any lot offered for sale whether made orally or in writing and whether given before, during or after the auction, nor shall they incur any liability in relation to any dispute between any purchaser and seller.
- (b) Purchasers should ensure that they receive on day of sale correct Passports for all animals. The auctioneer shall not be liable for any losses incurred by purchasers due to any discrepancies or otherwise in Passport documentation if not brought to the attention of the

auctioneers on day of sale. The authenticity of the Passport in regard to the premium status is the responsibility of the sellers.

(14) Accidents

The Auctioneers shall not be responsible for any accident which happens to any person, stock, vehicle or other property while on the Marts premises.

(15) Stock / Property Stolen:

Each lot shall be taken away by the Purchaser / Seller at the end of the sale, except where the owners have made prior arrangements with the Auctioneers. However the Auctioneers accept no responsibility for stock left on mart premises overnight.

(16) Entry to Premises:

The Auctioneers reserve the right to exclude or remove any person from the Mart premises without giving any reason.

(17) Commission Charges / Entry Fees

The scale of commission charges / Entry fees / European Involvement Fund Levy payable by the Vendor and the Purchaser shall of those fixed from time to time by the Auctioneers, and may be displayed on the Mart Notice Board. The Auctioneers shall be entitled to fix preferential Commissions / Charges to apply to members of the Society.

(18) Special Conditions

- (a) Sale of Heifers: All stock entered or sold in the heifer section are deemed to be maiden heifers unless otherwise stated at the time of sale and the seller shall be responsible for any claims arising.
- (b) Sale of Dry Cows: All stock entered or sold in the dry cow section are deemed not to be incalf unless otherwise stated at the time of sale and the seller shall be responsible for any claims arising
- (c) On the Market Selling: The Auctioneers may adopt an "On the Market System of Selling" from time to time. Under the "On the Market System of Selling" lots are deemed to be "On the Market" from the commencement of bidding. On the fall of the hammer the seller has the option of withdrawing the lot in question if he considers the bidding insufficient in which case this lot shall be declared unsold by the auctioneer.

The Auctioneers reserve to themselves the right to add, cancel, alter, or otherwise modify these general conditions, or any of them, from time to time at their sole discretion.

The Auctioneers may also adopt further Special Conditions, from time to time, as regards the sale or sales of any particular class or classes of stock, and in the event of the Special Conditions being repugnant to, or inconsistent, with the General Conditions, the Special Conditions shall prevail as regards the sale, or sales, to which they apply to the extent only that they are not repugnant or inconsistent.

(19) Public Display:

The Conditions of Sale, with any additions, cancellations, alterations, or modifications, and also the Special Conditions, shall at all times be displayed on the Mart Notice Board in the Mart Premises.

(20) Approval:

The above Conditions of Sale have been approved by the Board of Management of Clare Marts Ltd.

## **DEFINITIONS**

Auctioneers: Clare Marts Ltd.

Purchaser: The person who pays the Auctioneers for the stock purchased.

Unsoundness: Means any condition, state or formation which, in the opinion of a qualified veterinary surgeon –  
(a) Constitutes a departure from the normal; - and  
(b) Adversely affects the value of the animal, and  
(c) Can be detected by a qualified veterinary surgeon on ordinary examination by means of sight or touch.

Seller: The owner, and any other person, other than the Auctioneers, who offer any animal for sale on behalf of the owner.

Auctioneer: The person who conducts the bidding for the stock from the rostrum.