



CONDITIONS OF SALE

FROM: WESTERN BLOODSTOCK LTD. (THE AUCTIONEER)
TO: ALL SALE PARTICIPANTS AND ATTENDEES

READ THE FOLLOWING AND TAKE NOTICE BECAUSE THESE CONDITIONS OF SALE GOVERN ALL ACTIVITIES INVOLVING THE SALE. AUCTIONEER RESERVES THE RIGHT, IN ITS SOLE DISCRETION, TO SUSPEND ANY PERSON WHO VIOLATES THESE CONDITIONS IN ANY MANNER FROM FURTHER PARTICIPATION IN THIS OR ANY OTHER SALE CONDUCTED BY AUCTIONEER. AUCTIONEER FURTHER RESERVES THE RIGHT, IN ITS SOLE DISCRETION, TO MAINTAIN A LIST OF PERSONS WHO VIOLATE THESE CONDITIONS IN ANY MANNER AND TO PUBLISH SUCH LIST IN FUTURE SALE CATALOGS.

No. 1 PRE-PURCHASE HORSE INSPECTION AND HEALTH INFORMATION (INCLUDING REPOSITORY)

- A. Pre-Purchase Inspection:** ALL PROSPECTIVE BIDDERS ARE HEREBY GIVEN NOTICE OF THEIR OPPORTUNITY TO INSPECT, AND ARE URGED TO PERSONALLY INSPECT, ANY HORSE THOROUGHLY PRIOR TO BIDDING. ANY PROSPECTIVE BIDDER MAY HAVE A VETERINARIAN MUTUALLY ACCEPTABLE TO OWNER PERFORM A FULL PRE-PURCHASE EXAMINATION OF A HORSE AT A REASONABLE TIME PRIOR TO THE SALE. PRIOR TO THE SALE, A PROSPECTIVE BIDDER MAY ALSO INSPECT ALL RADIOGRAPHS/ DISCLOSURES PLACED IN THE REPOSITORY RELATED TO THE HORSE TO THE EXTENT SUCH RECORDS HAVE BEEN PROVIDED BY OWNER. BUYER SHALL BE ASSUMED TO HAVE KNOWLEDGE OF ANY FAULT, DEFECT OR CONDITION THAT A REASONABLE INSPECTION OF THE HORSE OR THE RADIOGRAPHS/ DISCLOSURES IN THE REPOSITORY SHOULD REVEAL. BUYER SHALL BE SOLELY RESPONSIBLE FOR THE SUFFICIENCY AND COMPLETENESS OF SUCH INSPECTION.
- B. Buyer's Risk and Indemnity:** BUYER'S FAILURE TO DO ANY OF THE FOREGOING PRIOR TO THE COMMENCEMENT OF BIDDING SHALL BE AT BUYER'S SOLE RISK. NEITHER OWNER NOR AUCTIONEER SHALL BE RESPONSIBLE FOR ANY FAULTS, CONDITIONS OR DEFECTS DISCOVERED AFTER THE SALE. BUYER SHALL INDEMNIFY AND HOLD HARMLESS AUCTIONEER, AND/OR ANY AGENT, EMPLOYEE OR REPRESENTATIVE THEREOF, FROM ALL LOSS, COST, EXPENSE, INCLUDING ATTORNEY FEES, OR ANY CLAIM ARISING FROM BUYER'S FAILURE TO DO ANY OF THE FOREGOING OR ANY FAULTS, CONDITIONS OR DEFECTS DISCOVERED AFTER THE SALE.
- C. Repository, Announcements/Disclosures and Owner's Indemnity:**
- (1) MAINTENANCE OF THE REPOSITORY SHALL NOT ALTER THESE CONDITIONS OF SALE, WHICH SHALL BE BINDING ON ALL SALE PARTICIPANTS AND ATTENDEES.
 - (2) SUBMITTED RADIOGRAPHS REMAIN THE PROPERTY OF AUCTIONEER AND ARE NOT AVAILABLE FOR VIEWING AFTER A HORSE IS SOLD.
 - (3) AUCTIONEER WILL NOT REVIEW AND SHALL NOT BE RESPONSIBLE FOR THE RADIOGRAPHS IN THE REPOSITORY AND MAKES NO WARRANTY WHATSOEVER REGARDING THE COMPLETENESS OR ACCURACY THEREOF. ALL SUCH WARRANTIES ARE EXPRESSLY DISCLAIMED BY AUCTIONEER.
 - (4) KNOWLEDGE OF THE RADIOGRAPH INFORMATION IN THE REPOSITORY SHALL NOT BE IMPUTED TO AUCTIONEER UNDER ANY CIRCUMSTANCES.
 - (5) OWNER IS SOLELY RESPONSIBLE FOR PROVIDING RADIOGRAPHS

PLACED IN THE REPOSITORY ON HORSES OFFERED FOR SALE. OWNER SHALL BE SOLELY RESPONSIBLE FOR INFORMING AUCTIONEER OF ANY FAULTS, DEFECTS OR CONDITIONS OF HORSES OFFERED FOR SALE SO PROPER ANNOUNCEMENTS/DISCLOSURES DISCLOSING THE SAME CAN BE MADE DURING THE SALE. OWNER SHALL BE SOLELY RESPONSIBLE FOR ANY FAILURE TO DISCLOSE THE SAME TO AUCTIONEER AND, IN ANY EVENT, FOR ANY OMISSION OF SALE REPOSITORY DISCLOSURE/ANNOUNCEMENT BY AUCTIONEER. OWNER SHALL INDEMNIFY AND HOLD HARMLESS AUCTIONEER, AND/OR ANY AGENT, EMPLOYEE OR REPRESENTATIVE THEREOF, FROM ALL LOSS, COST, EXPENSE, INCLUDING ATTORNEY FEES, OR ANY CLAIM ARISING FROM ANY DISCLOSURE/ANNOUNCEMENT OR FAILURE TO ANNOUNCE/DISCLOSE OR FROM ANY INACCURACY IN OR OMISSION FROM THE RADIOGRAPHS IN THE REPOSITORY.

- (6) INFORMATION SUPPLIED TO THE REPOSITORY BECOMES THE SOLE PROPERTY OF AUCTIONEER AND MAY BE USED IN THE EVENT OF A DISPUTE. AUCTIONEER WILL NOT ANNOUNCE THE RESULTS OF RADIOGRAPHS.
- (7) AUCTIONEER EXPRESSES NO OPINION AS TO CURRENT AVAILABLE HERDA TESTS. AUCTIONEER URGES SELLERS OF HORSES THAT HAVE BEEN TESTED FOR HERDA TO MAKE THOSE TEST RESULTS AVAILABLE TO POTENTIAL BUYERS IN THE REPOSITORY ON THE SALE GROUNDS. AUCTIONEER DOES NOT INTERPRET OR ENDORSE ANY TEST RESULTS, AND MAKES NO COVENANT OR WARRANTY AS TO THE ACCURACY THEREOF.

D. All Owners of horses consigned to this sale have been required to provide an original negative Coggins test report dated within six (6) months of the sale and an original health certificate (issued to the auction grounds) dated within fifteen (15) days of the sale. Health certificates for out-of-state departures may be obtained at Buyer's expense from attending veterinarians.

No. 2 NO RETURNS OR REFUNDS

ALL SALES ARE FINAL AND BINDING. NO HORSES ARE SUBJECT TO RETURN AND NO REFUNDS SHALL BE MADE EXCEPT AS STATED IN CONDITION NO. 4 BELOW OR PURSUANT TO THE BINDING ARBITRATION PROCEDURES STATED IN CONDITION NO. 16 BELOW.

No. 3 EXCLUSION OF WARRANTIES AND "AS IS" SALES

A. ALL SALES ARE "AS IS": SUBJECT ONLY TO OWNER'S LIMITED WARRANTIES EXPRESSED IN CONDITION NO. 4 BELOW, EACH HORSE IS SOLD "AS IS" WITH ALL FAULTS, DEFECTS AND CONDITIONS, IF ANY, AND WITHOUT ANY FURTHER WARRANTY OF ANY KIND, EXPRESS OR IMPLIED. BUYER SHALL BE DEEMED TO ACCEPT ANY HORSE PURCHASED AS SUCH.

B. Warranties by Owner Only: NEITHER AUCTIONEER, THE NRCHA NOR ANY SPONSORS MAKE ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, ABOUT THE HORSES SOLD OR OFFERED FOR SALE, INCLUDING ANY WARRANTY AS TO THE PERFORMING SOUNDNESS, MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSE OR BREEDING QUALITIES OR SOUNDNESS OF ANY HORSE OFFERED IN THE SALE. ALL SUCH REPRESENTATIONS AND WARRANTIES ARE HEREBY EXPRESSLY DISCLAIMED. "PUFFERY" OR ANY OTHER STATEMENT BY AUCTIONEER OR ANYONE ACTING ON ITS BEHALF SHALL NOT BE CONSIDERED A REPRESENTATION OR WARRANTY UNDER ANY CONDITION, AND PROSPECTIVE BIDDERS SHOULD NOT RELY ON SUCH STATEMENTS AS A REPRESENTATION OR WARRANTY BY AUCTIONEER. AUCTIONEER SHALL HAVE NO RESPONSIBILITY FOR ANY WRITTEN OR VERBAL ARRANGEMENTS BETWEEN OWNERS AND PROSPECTIVE BIDDERS/BUYERS WHICH DIFFER FROM THESE CONDITIONS OF SALE.

No. 4 OWNER'S EXPRESS LIMITED WARRANTIES AND BUYER'S LIMITED RIGHT OF RETURN

A. Owner's Limited Warranties: Unless stated otherwise in the sale catalog and/or unless otherwise announced and/or unless otherwise disclosed in the Sale Repository (disclosures) at the time of sale on Owner's behalf, Owner makes the following limited warranties and

only these warranties to potential bidders and Buyers:

(Auctioneer will exercise its' sole discretion in making announcements and /or disclosures.)

- (1) Owner warrants the correct identity and title to each animal free from all liens and adverse claims to ownership, use or possession, and agrees to defend title against all claims, including any claims which arise from the animal's failure to satisfy the AQHA's requirement of parentage.
- (2) Owner warrants that the horse is not a cribber.
- (3) Owner warrants that the horse does not possess any deviation from the norm in eyes and mouth.
- (4) Owner warrants that yearlings, two-year-olds and horses sold under saddle have not been nerved and have not undergone invasive joint surgery.
- (5) Owner warrants that the horse has not been foundered nor has it been diagnosed with navicular disease.
- (6) Owner warrants that the horse has not undergone abdominal surgery.
- (7) Owner warrants that the horse's sex is as described in the catalog. Owner further warrants that colts or stallions at least thirteen (13) months of age at the time of sale possess two (2) palpable testicles descended to the scrotum. There is no representation or warranty as to the size or function of testicles. When at least one testicle is not palpable in its entirety below the external inguinal ring, such horse will be announced as a ridgeling. When both testicles have been removed surgically, such horse will be announced as a gelding.
- (8) Owner warrants that all mares at least eighteen (18) months of age at the time of sale possess two (2) palpable ovaries and, unless specified as such, are not pregnant.
- (9) Owner warrants that each horse offered for breeding is suitable for breeding.
- (10) Owner warrants that the horse's tail has not been altered in any way.

B.Owner is Solely Responsible for Announcements/Disclosures: In the event a horse possesses any defects or conditions inconsistent with the foregoing limited warranties, Owner shall inform Auctioneer of the same immediately, and in any event prior to sale of the horse, so that proper announcements/disclosures disclosing the same can be made during the sale. Owner shall be solely responsible for any omission of announcement/disclosure by Auctioneer under any and all circumstances.

C.Exclusion of All Other Warranties: THE LIMITED WARRANTIES STATED IN THIS CONDITION NO. 4 ARE THE ONLY WARRANTIES MADE BY OWNER. AUCTIONEER MAKES NO WARRANTIES WHATSOEVER.

D.Cloning Rights: Owner agrees that exclusive cloning rights to the animal sold pass to Buyer unless otherwise announced. Neither Auctioneer nor the pedigree research company retained by Auctioneer shall be responsible for providing information regarding tissue retained by Owner for future cloning or information as to same year siblings resulting from embryo transfer or for reporting multiple embryos (foals or embryos in utero in recipient mares of the same year) out of dams in the sale; nor shall Auctioneer or the sale catalog company be liable in any way for any Buyer's knowledge/lack of knowledge of such information.

E.Buyer's Limited Right of Return: Buyer's limited right to return any horse purchased shall be governed by the following terms and conditions:

- (1) Any horse sold in the sale which has a condition covered by Owner's limited warranties or that must be announced/disclosed as provided and which was not so announced and/or disclosed shall be subject to return to Owner, with a refund of the purchase price if already paid, PROVIDED THAT WITHIN TWENTY-FOUR (24) HOURS AFTER THE TIME OF SALE AND BEFORE THE HORSE LEAVES THE AUCTION GROUNDS, OWNER RECEIVES WRITTEN NOTICE FROM BUYER AND A WRITTEN VETERINARY CERTIFICATE, BASED ON EXAMINATION BY THE CERTIFYING VETERINARIAN, STATING THAT SUCH A CONDITION EXISTS AND THAT THE SAME EXISTED AT TIME OF SALE. BUYER OR OWNER SHALL SUBMIT A FULL COPY OF SAME WRITTEN NOTICE AND VETERINARY STATEMENT TO AUCTIONEER. BUYER'S RIGHT OF RETURN AS SET FORTH HEREIN IS CONTINGENT UPON THE HORSE BEING IN MATERIALLY THE SAME

CONDITION AS IT WAS AT THE TIME OF SALE. The post-sale veterinary testing referenced herein is limited strictly to conditions covered by Owner's express limited warranties and to guarantees made by Owner (or on Owner's behalf through announcement/disclosure) during the sale. Any such post-sale testing by Buyer is in no way intended for the purpose of an extended examination commonly referred to as a "veterinary pre-purchase examination" or a "veterinary insurance examination"; such examinations must be conducted, if at all, prior to the sale.

- (2) Upon request for return as provided above, Owner has the right to seek the opinion of a second veterinarian. In the event said claim remains unresolved due to a conflict between the first and second veterinary opinions, said claim shall be settled by binding veterinary arbitration as provided in Condition No. 16 below.
- (3) The right of return as provided in this Condition No. 4 shall be Buyer's SOLE REMEDY. Neither Owner nor Auctioneer shall be liable for consequential damages under any circumstances. If it is determined that a horse was sold and misrepresented by Owner, all fees associated with the sale become due to Auctioneer from Owner.
- (4) If Buyer chooses not to have an examination performed on a horse purchased as provided herein, within the time limitations specified and before the horse leaves the grounds, then that horse shall be deemed sold "AS IS" and with all faults, if any, and without any warranty, express or implied, subject only to Owner's limited warranties stated in Condition No. 4. Buyer shall have absolutely no right of recourse to reject any horse so purchased.
- (5) In the event Buyer gives notice of refusal to pay for a horse because of claim of misrepresentation, fraud or breach of warranty regarding such horse, Auctioneer shall not pay to Owner the net proceeds of sale of such horse until the claim has been finally resolved and the proceeds of sale have been received by Auctioneer.
- (6) Any use of a horse after discovery of a condition covered by Owner's express limited warranties, or that must be announced/disclosed and which was not so announced/disclosed, VOIDS any right of return by Buyer to Owner.

No. 5 BROODMARES

Final pregnancy status on broodmares will be announced during the sale on behalf of Owner and will take precedence over printed material in the catalog or in advertising. It is agreed that each pregnant broodmare in the sale will be offered with a veterinary certificate provided by Owner in conformity with standards established by the American Association of Equine Practitioners, showing her to be pregnant, in the opinion of the examining veterinarian, based on manual examination within fifteen (15) days prior to the date of sale. The sale of any broodmare represented by Owner as being "pregnant" is contingent upon a positive pregnancy examination by a licensed veterinarian immediately upon exit from the auction arena at Buyer's expense. Any contractual agreements between Owners of these broodmares in the sale and Owners of stallions to which these mares may have been bred are strictly between Owner and Buyer, not Auctioneer. Additionally, any agreements between Owners of mares in the sale and breeding or embryo transfer facilities are strictly between Owner and Buyer, not Auctioneer.

No. 6 CATALOG INFORMATION AND ANNOUNCEMENTS/DISCLOSURES

A. Every reasonable effort has been made to ensure correctness of the information printed in the sale catalog. However, as each horse enters the sale arena all participants are cautioned to pay close attention to the announcements made during the sale regarding changes in, or additions to, information found in the sale catalog, as such announcements take precedence over the catalog printed material. The radiographs/disclosures in the Repository, if any, the catalog information and the limited warranties in the auction process are provided by and are the sole responsibility of Owner. It is also Owner's sole responsibility to make certain that only correct statements are made public before or while the horse is in the auction arena. Owner is solely responsible for having such announcements/disclosures made and for their accuracy. Owner hereby releases, INDEMNIFIES and HOLDS HARMLESS Auctioneer from any errors and omissions of Auctioneer in connection with making or failing to make any such announcement/disclosure. In the event Owner misrepresents or fails to disclose any fault, defect or condition of a horse sold or offered for sale, or in the event any of Owner's representations or warranties are incomplete or inaccurate in any way, Owner shall INDEMNIFY and HOLD HARMLESS Auctioneer from any and all liability, debts, claims, suits, losses, damages, causes of action, judgments, costs and expenses, including attorney fees, incurred by Auctioneer as a result. Any catalog informa-

tion that was procured by Auctioneer from third parties on behalf of Owner remains the sole responsibility of Owner to verify. Auctioneer does not create nor does it assume any responsibility or liability for errors or omissions in information in the sale catalog or sale repository or for any verbal statement regarding the horse while in the auction arena or at any other time during the auction process. The sale is governed by these Conditions of Sale and all announcements/disclosures made during the sale. All participants of the sale are bound by and subject to the provisions of these Conditions of Sale, as set forth in the catalog, as well as any and all announcements/disclosures made during the sale.

B. Catalog order for the sale has been determined by a computer draw system. Hip numbers have been assigned by Auctioneer and shall not be removed by Owner or Buyer while the horse is on the sale grounds.

No. 7 BIDDING PROCEDURES

A. Bidding Procedures: The person making the highest bid recognized by Auctioneer shall be the Buyer. Auctioneer will immediately present Buyer with a document entitled Buyer's Acknowledgement of Purchase and Security Agreement for signature. Should such presentation not be made prior to commencement of bidding on the next lot offered, Buyer shall forthwith identify himself or herself to Auctioneer as Buyer and sign the Buyer's Acknowledgement of Purchase and Security Agreement. If the highest bidder fails to immediately execute the Buyer's Acknowledgement of Purchase and Security Agreement or otherwise fails to comply with the Conditions of Sale, or in the event of a mistake by Auctioneer, Auctioneer reserves the option to re-sell the animal; such resale shall terminate all obligations of Auctioneer and Owner to honor any prior bid. Any sale participant who buys and signs a Buyer's Acknowledgement of Purchase and Security Agreement is fully responsible for that purchase and cannot assign ownership to a second party.

B. Owner's Right To Bid: The right to bid in the sale is reserved for all Owners, including their disclosed and undisclosed agents, unless otherwise announced at time of sale. Buyers agree and acknowledge that Owners have the right to set reserves upon horses so entered which are not disclosed to Buyers and also have the right to conduct buy-bidding as related to their entries. If Owner elects to repurchase a consigned horse, Owner must do so by: (1) being the highest bidder and signing the Buyer's Acknowledgement of Purchase and Security Agreement; or (2) submitting a completed written reserve bid form to Auctioneer at least thirty minutes prior to the horse being led into the ring for sale; or (3) instructing Auctioneer. Auctioneer thus reserves the right to bid on behalf of the seller up to the amount of the reserve bid. Under no circumstance will a reserve bid submitted on a consignment contract or which is turned in to a bid spotter or submitted in any form other than previously stated be accepted. Owner agrees that Auctioneer is absolved from any liability if these procedures are not strictly followed.

C. Owner's Completed Sale: Owner warrants that Auctioneer is entitled to all applicable sale fees if a horse sells as a result of the sale. Owner agrees that Auctioneer shall use any means available to collect applicable fees if a horse sells as a result of the sale.

D. Upset Price: Unless waived by announcement, there shall be a \$1,000 upset price on any horse offered for sale. Thus, if an opening bid of \$1,000 is not immediately forthcoming at the beginning of bidding, the horse shall be led out as unsold and a repurchase fee, equal to the entry fee, shall be charged and deducted from Owner's account.

E. Right Of Exclusion/Refusal of Bids: Auctioneer reserves the right to refuse to accept and/or to reject and/or to ignore any bid(s) from any person(s) whomsoever; provided, however, such exclusion of or refusal to accept bid(s) shall not be made on the basis of race, sex, color or creed.

No. 8 BIDDING DISPUTES

A. If a dispute as to the prevailing bid should arise among two or more bidders, Auctioneer shall settle the dispute in its sole discretion, and Auctioneer's decision shall be absolute, final and binding on all parties. In such a case, Auctioneer has the right but not the obligation to re-open the bidding procedure and ask for advance bids solely between the bidders having claimed the last highest bid. If there is no advance bid, the horse shall be sold to the bidder from whom Auctioneer recognized the final bid. If for any reason the bid should be reduced below the amount of the last recognized bid, Auctioneer may re-open the bidding to all bidders with the highest bidder becoming the Buyer, regardless of whether or not the final bid exceeds the bid which was originally disputed.

B. An audio and/or video (with audio) recording will be made of the entire auction. If a dispute

arises between Buyer and Owner, the recording of the sale and, if necessary, an examination by a veterinarian approved by Auctioneer can be made available to help resolve any misunderstandings or disputes. Otherwise, any disputes between Buyer and Owner shall be settled strictly between Buyer and Owner by binding arbitration pursuant to Condition No. 16 below.

- C. Any other issue that arises but is not expressly covered in these Conditions of Sale shall be regulated according to the established customs and practices of professional auction sale companies and, as necessary, the binding arbitration procedure stated in Condition No. 16 of these Conditions of Sale.

No. 9 SETTLEMENT OF ACCOUNT

A. Payment: Settlement of account for any purchase shall be made by paying the purchase price in full and in good funds directly to Auctioneer's sales cashier within the specified time announced prior to the commencement of the auction. All buyers must notify sale office of final settlement plans. Sellers have contracted and agreed not to privately sell any horse after it has been accepted for sale consignment. SALES WHILE ON THE PREMISES, COMMONLY REFERRED TO AS ALLEY SALES, ARE NOT PERMITTED BY WESTERN BLOODSTOCK OR NRCHA. PAYMENT TO ANY OTHER PERSON OR SOURCE OTHER THAN AUCTIONEER'S SALES CASHIER IS PROHIBITED AND SHALL NOT BE RECOGNIZED AS PROPER SETTLEMENT. PAYMENTS TO OTHERS, INCLUDING DIRECT PAYMENT TO OWNERS OR THEIR REPRESENTATIVES, DO NOT CONSTITUTE SETTLEMENTS. Settlement for all purchases shall be made with U.S. currency or with funds from a U.S. bank in the form of a bank check which has been approved by Auctioneer, certified check or travelers check; provided, however, Auctioneer reserves the right, in its sole discretion, to accept a personal check upon written authorization or letter of credit from the bank on which the check is drawn. The Buyer's Acknowledgement of Purchase and Security Agreement is not transferable without the approval of Auctioneer. The copy of the Buyer's Acknowledgement of Purchase and Security Agreement retained by Buyer must be presented by Buyer at the time of settlement. A valid U.S. driver's license and/or other form(s) of positive U.S. identification for Buyer are required upon settlement; provided, however, Auctioneer reserves the right to accept settlement by Buyer without presentation of U.S. identification on terms satisfactory to Auctioneer, in its sole discretion.

B. Notice Regarding Failures to Pay: Any person signing a check in the State of Texas is liable for the full amount of the check. Any party issuing a check returned as "insufficient funds" or "payment stopped" or "account closed", or issuing a check that for any other reason does not clear drawee's bank, is subject to being prosecuted to the full extent of the law and is further subject to all legal and equitable remedies, including interest, court costs and attorney fees.

C. Defaulters: SHOULD BUYER FAIL TO COMPLY IN ANY RESPECT WITH THESE CONDITIONS, AUCTIONEER MAY, IN ITS ABSOLUTE AND SOLE DISCRETION, PURSUE ANY REMEDY AVAILABLE TO IT AGAINST THE DEFAULTING BUYER, INCLUDING BUT NOT LIMITED TO TAKING POSSESSION OF THE HORSE AND/OR RESELLING THE HORSE AT PUBLIC AUCTION OR BY PRIVATE SALE. In the event Auctioneer wishes to take possession of the horse upon Buyer's default, Buyer agrees to return the horse by delivering the horse to the location requested by Auctioneer at the time requested by Auctioneer. In any case, Buyer shall be liable for any deficiency after charging to Buyer's account all costs of recovering the horse, all costs of maintenance and resale of the horse, including but not limited to service charges, and all attorney fees and costs of litigation. Buyer shall also be subject to all other relief available at law or in equity to Auctioneer.

D. Failure to Pay: Any member may be suspended and denied privileges of the Association, and any non-member, may be denied privileges of the Association for the failure to pay when due any obligation owing to the Association or for giving a worthless check for the purchase of livestock or other property during a sale authorized or sanctioned by the Association or an affiliate of the Association; provided, however, that the member or non-member subject to suspension shall be given fifteen (15) days written notice of the amount due and the intention of the Association to suspend or withhold privileges. Any suspension and denial of privileges under this rule shall terminate upon full payment of the obligation due.

E. Removal of Horses After Sale: Unless other arrangements have been made with Auctioneer,

Buyer shall remove all horses promptly from the sales barns after the sale. In addition, should Buyer fail to remove the horse(s) promptly, Auctioneer may remove the horse(s) from the sales premises at Buyer's risk and expense or, in the alternative, charge Buyer for stable space.

F. Security Interest: Any Buyer who purchases a horse grants to Auctioneer a SECURITY INTEREST in all horses purchased and their proper certificates of registration and in any products and proceeds, in the amount of any outstanding sum owed to Auctioneer on Buyer's account.

No. 10 PASSAGE OF TITLE, RISK OF LOSS AND POSSESSION OF HORSE

A. Passage of Title and Risk of Loss: All risk of loss, title to, interest in and possession of the horse(s) shall remain with Owner until the fall of the hammer. Notwithstanding the fact physical delivery of the horse to Buyer is yet to be made, title and ALL RISK OF LOSS, INJURY, SICKNESS, DISEASE AND ANY AND ALL OTHER RISKS PERTAINING TO THE HORSE PURCHASED SHALL PASS TO BUYER AUTOMATICALLY AND IMMEDIATELY AT THE FALL OF THE HAMMER, whereupon Buyer assumes all risk of loss and all responsibility, stabling, care and expenses for the horse. Upon the fall of the hammer, Buyer becomes obligated to INDEMNIFY AND HOLD HARMLESS Auctioneer, and/or any agent, employee or representative thereof, from all loss, cost and expense arising from (i) the illness, injury or death of the purchased horse, (ii) loss or damage to property caused by the purchased horse or (iii) injury or death of persons caused by the purchased horse.

B. Physical Delivery of Horse: Upon settlement by Buyer, the horse will be physically delivered to Buyer pursuant to a "stable release" provided by Auctioneer to Buyer or Buyer's representative. Upon settlement, Buyer will receive a copy of the Buyer's Acknowledgement of Purchase and Security Agreement, the current Coggins test, a copy of the registration certificate, a copy of any applicable breeder's certificate and/or a copy of any registration application available for a horse pending registration.

C. Return of Horse: Upon return of a horse to Owner in accordance with these Conditions of Sale, ALL RISK OF LOSS, INJURY, SICKNESS, DISEASE AND ANY AND ALL OTHER RISKS PERTAINING TO THE HORSE PASS TO OWNER (1) immediately upon Buyer's physical delivery of the horse to Owner or Owner's representative if there is no dispute as to the return, or (2) immediately upon final resolution of the dispute by arbitration if there is a dispute as to the return. In either event, Owner shall be responsible for reasonable expenses for keep, maintenance and transportation of the horse from the time of sale until return. Additionally, Owner agrees that if the sale of any horse is not consummated for any reason in accordance with these Conditions of Sale or otherwise, Auctioneer shall not be liable for the purchase price of the horse.

No. 11 REGISTRATION AND BREEDER'S CERTIFICATES

A. All original registration certificates, transfer reports, applicable breeder's certificates and/or registration applications shall be held by Auctioneer until Buyer's payment clears the drawee's bank and becomes an unconditional credit of payment of account. Upon the clearance, all original registration certificates and transfer papers will be forwarded by Auctioneer directly to the proper breed association for transfer of registration into Buyer's name. Owner shall be responsible for payment of all applicable transfer fees.

B. The paperwork for foals selling on application, and for all breeder's certificates for pregnant mares, will be forwarded to Buyer by Auctioneer. Pending registration certificates being processed by the appropriate registration agency at the time of sale shall be returned from that agency to Owner, who shall in turn directly deliver such to Auctioneer. Auctioneer will then forward the registration certificate and transfer report to the proper breed association. AUCTIONEER DOES NOT GUARANTEE AQHA/APHA REGISTRATION OF ANY FOAL RESULTING FROM A FROZEN EMBRYO.

C. Original registration certificates and accompanying paperwork will be released to Owner for any horses not sold after all expenses are paid and any Owner payment has cleared the bank.

D. Auctioneer reserves the right to withhold delivery of all registration documents for all horses bought by a Buyer until such time as Buyer's or Owner's account with Auctioneer has been paid in full.

No. 12 GOVERNING LAWS

- A. AUCTIONEER HAS NOT PHYSICALLY INSPECTED ANY OF THE HORSES SOLD OR OFFERED FOR SALE FOR ANY PURPOSE. THERE SHALL BE NO WARRANTY, EXPRESS OR IMPLIED, CREATED OR INTENDED BY AUCTIONEER, OR ANY REPRESENTATIVE THEREOF, AS TO THE SOUNDNESS, PHYSICAL CONDITION, HEALTH, DISPOSITION, FERTILITY, PREGNANCY STATUS OF BROODMARES, OWNERSHIP, TITLE, MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSE, HERDA TESTING RESULTS OR OTHERWISE RELATING TO ANY HORSE OFFERED IN THE SALE OR THAT THE HORSE PRESENTED FOR SALE IS THE HORSE CATALOGUED. ANY AND ALL WRITTEN OR VERBAL HEALTH, MEDICAL AND LEGAL REPRESENTATIONS ARE MADE SOLELY BY OR ON BEHALF OF OWNER.**
- B. Auctioneer and its directors and employees are known and recognized as professionals in horse sales management. For the sale, Auctioneer shall only temporarily serve as an independent intermediary engaged in the business of conducting consignment sales of horses. Auctioneer holds no ownership interest in any of the animals consigned for sale, but its directors or employees may privately own animals expressly identified as such during the sale. Auctioneer, or any representative thereof, does not assume and shall not be responsible for any personal liability or liability of any other person or entity whatsoever, including, but not limited to, the loss, damage, injury, death or illness of any animal, person or property arising before, during or after the sale. All horses consigned to the sale are offered in accordance with the applicable laws of the State of Texas, including but not limited to the Texas Business and Commerce Code and Section 2.316(f) thereof providing that THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS DO NOT APPLY TO THE SALE OR BARTER OF LIVESTOCK OR ITS UNBORN YOUNG. ALL TRANSACTIONS BETWEEN OWNER, AUCTIONEER AND BUYER, AND ANY OTHER MATTER INVOLVING THIS SALE IN ANY WAY, SHALL BE GOVERNED BY THE LAWS OF THE STATE OF TEXAS without reference to choice of law rules. All Owners/Sellers are hereby bound by the Consignment Contract and the information provided therein as submitted upon nomination of each sale entry, as well as these Conditions of Sale, as well as any announcements made by or on behalf of Owners during the sale. In the event of any dispute between Buyer and Owner, Auctioneer shall only temporarily occupy the position of a third-party agent for a disclosed principal and stakeholder, and shall be discharged from all obligations owing to either Owner or Buyer upon delivery of any property, funds or registration certificates held by Auctioneer to a Court having proper jurisdiction of such dispute.**

No. 13 USE CAUTION WHILE ON THE PREMISES

All persons attending the sale do so at their own risk and are urged to use extreme caution. WARNING: UNDER TEXAS LAW (CHAPTER 87, THE TEXAS CIVIL PRACTICE AND REMEDIES CODE), A FARM ANIMAL PROFESSIONAL OR FARM OWNER OR LESSEE IS NOT LIABLE FOR AN INJURY TO AND/OR THE DEATH OF A PARTICIPANT IN FARM ANIMAL ACTIVITIES, INCLUDING AN EMPLOYEE OR INDEPENDENT CONTRACTOR, RESULTING FROM THE INHERENT RISKS OF FARM ANIMAL ACTIVITIES.

No. 14 INDEMNITY AND HOLD HARMLESS

- A. All Owners, prospective bidders and Buyers agree to save, HOLD HARMLESS and INDEMNIFY Auctioneer, Will Rogers Memorial Center, the NRCHA, the AQHA, the APHA and their respective agents, employees, partners, directors, officers and/or any person or entity acting on their behalf, from and against any and all liability, debt, claims, suits, losses, damages, causes of action, judgments, costs and expenses, including attorney fees, arising or allegedly arising from (i) personal injury or death of any person (including but not limited to employees of Owner or Buyer) or any horse, including but not limited to any claims arising out of injuries or damages caused by the horse after the fall of the hammer, and (ii) property damage, including loss of use thereof, economic loss or otherwise, arising or growing directly or indirectly out of Owner's or Buyer's use of any of the facilities in connection with the sale, the conducting of the sale or anything occurring in connection with the sale.**
- B. Indemnity by Owner for Misrepresentations or Omissions: In the event Owner misrepresents or fails to disclose any fault, defect or condition of a horse sold or offered for sale, or in the event any of Owner's representations or warranties are incomplete or inaccurate**

in any way, Owner shall INDEMNIFY AND HOLD HARMLESS Auctioneer from any and all liability, debt, claims, suits, losses, damages, causes of action, judgments, costs and expenses, including attorney fees, incurred by Auctioneer as a result.

C. Indemnity for Violations of these Conditions of Sale or Other Contracts: Each Owner, prospective bidder and Buyer participating in this sale agrees to save, HOLD HARMLESS and INDEMNIFY Auctioneer and its agents, employees, partners, directors, officers and/or any person or entity acting on its behalf, from and against any and all liability, debt, claims, suits, losses, damages, causes of action, judgments, costs and expenses, including attorney fees, arising or allegedly arising from such Owner's, prospective bidder's or Buyer's violation or breach of any of these Conditions of Sale or of any other contract such party may have with Auctioneer relating to this sale, including but not limited to any consignment contract or any Buyer's Acknowledgement of Purchase and Security Agreement.

D. Indemnity for Auctioneer's Own Negligence: THE FOREGOING INDEMNITY OBLIGATIONS SHALL APPLY WHETHER OR NOT THE CLAIM OR LIABILITY IN QUESTION RESULTS OR IS ALLEGED TO RESULT IN WHOLE OR IN PART FROM THE SOLE, CONCURRENT OR COMPARATIVE NEGLIGENCE OR STRICT LIABILITY OF AUCTIONEER, ITS AGENTS, EMPLOYEES, PARTNERS, DIRECTORS, OFFICERS AND/OR ANY PERSON OR ENTITY ACTING ON ITS BEHALF, OR ANY DEFECT IN THE PREMISES, EQUIPMENT OR TOOLS OWNED, OPERATED OR CONTROLLED BY AUCTIONEER. THUS, IT IS UNDERSTOOD AND AGREED THAT IN NO CASE SHALL AUCTIONEER, ITS EMPLOYEES, AGENTS, DIRECTORS, PARTNERS OR OFFICERS BE RESPONSIBLE FOR ANY LOSS, DEATH, DAMAGE OR INJURY OF ANY CHARACTER TO ANY PERSON, ANIMAL OR ARTICLE ARISING FROM OR OCCURRING DURING THE SALE.

E. Indemnity Obligations Cumulative: THE INDEMNITY OBLIGATIONS STATED IN THIS CONDITION NO. 14 ARE IN ADDITION TO THOSE STATED ELSEWHERE IN THESE CONDITIONS OF SALE, IN OWNER'S CONSIGNMENT CONTRACT OR OTHERWISE.

No. 15 OTHER

A. Information Not Confidential: All information concerning sales prices, incidental and consequential sales expenses, the existence and amounts of liens, charges and other claims, and the final payment of accounts with respect to Buyers, Sellers, Breeders and Owners, SHALL NOT be deemed to be confidential in nature. All parties agree that Auctioneer may, but shall not be required to, disclose such information without incurring liability to any party.

B. Entire Agreement with Buyer: The entire agreement with Buyer regarding the sale and purchase of a horse at the sale is contained in these Conditions of Sale and in the Buyer's Acknowledgement of Purchase and Security Agreement. Auctioneer shall not be bound by any oral or written agreement between Buyer and Owner unless agreed to in writing and signed by Auctioneer.

No. 16 BINDING ARBITRATION AND LIMITATION OF DAMAGES

A. Claims Not Involving Auctioneer: Any controversy between Buyer and Owner shall be settled by arbitration between Buyer and Owner pursuant to the following procedure: Upon Auctioneer's determination that a claim under such Conditions of Sale has been timely and properly presented by Buyer pursuant to these Conditions of Sale, and upon notice from Auctioneer, Buyer and Owner shall each select a licensed veterinarian at its own expense. If such veterinarians fail to agree promptly as to the validity of the claim, said veterinarians, with the approval of Buyer and Owner, shall agree upon a third licensed veterinarian. If no agreement can be reached, Auctioneer shall select the third veterinarian. The third veterinarian's fee, expenses and costs shall be paid by the non-prevailing party. The panel of three veterinarians shall conduct any tests, investigation or examinations which they deem necessary, and may, in their discretion, conduct a hearing by notifying Auctioneer to arrange for the hearing at a location to be determined by the arbitrators, and shall, by majority vote, determine the validity of the claim. Should Buyer prevail in the arbitration of a dispute and thereafter wish to return the horse and receive a refund, all fees associated with the sale become immediately due and payable to Auctioneer from Owner. Any costs incurred by Auctioneer for care of the horse during the resolution of the dispute shall be paid to Auctioneer by the non-prevailing party prior to release of such horse by Auctioneer. Moreover, if a Buyer gives notice of a dispute hereunder or refuses to pay for a horse because of a claim of misrepresentation, fraud or breach of any of Owner's limited warran-

ties, Auctioneer, in its sole discretion, may elect not to pay Owner the net proceeds of the sale of the horse(s) in question until the claim has been finally resolved and the proceeds of the sale have been received by Auctioneer. If it is determined that a horse was sold and misrepresented by Owner, in addition to Owner's indemnity obligations all fees associated with the sale become due to Auctioneer from Owner. The prevailing party shall be entitled to recover reasonable and necessary attorney fees and the costs of arbitration from the non-prevailing party.

B. Claims Involving Auctioneer: If a dispute should arise between Owner and Auctioneer or Buyer and Auctioneer, all claims, disputes, controversies, differences or other matters in question arising out of Auctioneer's relationship to any party in the matters stated in these Conditions of Sale and all other matters in which Auctioneer has provided any type of services at any time, whether or not those matters are encompassed within this document (including, but not limited to compensation for fees, expenses and/or commissions) shall be settled finally, completely and conclusively by binding arbitration in Weatherford, Parker County, Texas, in accordance with the Commercial Arbitration Rules of the American Arbitration Association, by an arbitrator chosen in accordance with said Rules; provided, however, Auctioneer shall be entitled to seek all legal and equitable remedies, including but not limited to civil or criminal judicial relief, in order to enforce or foreclose its security interest, to recover horses sold and not paid for in full and/or to collect payment for horses. Arbitration shall be initiated by written demand of the party seeking arbitration. A decision of the arbitrator or arbitrators shall be final, conclusive and binding on the parties, and judgment may be entered thereon in the District Court of Parker County, Texas, to enforce such decision and the benefits thereof. Any arbitration held in accordance with this paragraph shall be private and confidential, and no person shall be entitled to attend the hearings except the arbitrator(s), the stenographer (if one is requested), the parties and the attorneys for the parties and/or representatives designated by the parties. The matters submitted for arbitration, the hearings and proceedings thereunder and the arbitration award shall be kept and maintained in strictest confidence by the parties and shall not be discussed, disclosed or communicated to any person except as required by law or as necessary to enforce rights thereunder. On request of any party, the record of the proceeding shall be sealed and may not be disclosed except insofar, and only insofar, as may be necessary to enforce the award of the arbitrators and any judgment enforcing such award. The prevailing party shall be entitled to recover reasonable and necessary attorney fees and the costs of arbitration from the non-prevailing party.

C. Claims Involving Attendees: Except as to disputes between Buyers and Owners governed by the foregoing paragraph A, any attendee at the sale, whether or not a Buyer, Owner or bidder, agrees to resolve any claims, disputes, controversies, differences or other matters arising directly or indirectly out of his or her attendance at the sale by binding arbitration in accordance with the foregoing paragraph B.

D. No Consequential Damages: In no event shall Auctioneer or Owner be liable for consequential damages of any kind or character.

E. Waiver of Jury Trial: By virtue of the foregoing arbitration provisions, all Owners, Buyers, bidders and attendees voluntarily and intentionally waive any right that they may have to a trial by jury in respect to any litigation arising from or connected with the sale.