

## **TERMS AND CONDITIONS OF SALE**

The purpose of these terms and conditions is to set forth the obligations of the owner/consignor and the purchaser. All transactions are governed by these "Terms and Conditions." All buyers must obtain a bidders number prior to bidding. All persons receiving a bidders number will sign a statement of their acceptance and agreement to the following conditions. **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 any 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.

**FIRST: APPLICABLE LAW:** All horses in this sale are offered according to the laws of the state wherein the sale is conducted. The right to bid, as provided under the law, is reserved for all owners/consignors, including owners/consignors and their agents, unless otherwise announced by Auctioneer or otherwise provided for in these conditions. No horses in this sale are offered at absolute auction unless otherwise announced. Owner/Consignors have the right to bid or have their representative bid for them to retain ownership of horses not receiving a satisfactory offer. A member of the sale staff may be designated by the Auctioneer on behalf of the owner/consignor as their representative to protect their horses up to a specified amount. Alan Parker Auctioneer reserves the right to reject any and all bids.

**SECOND: There is no warranty,** expressed or implied by the Sales Company, Auctioneer, sponsors, owner or consignor, as to the performing soundness, merchantability, or fitness for any particular purpose of any horse offered in this sale. All horses are sold "as is" with all existing conditions and defects, if any, except as provided below in Conditions Fifth and Sixth of the Owner's Limited Warrantees.

### **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/consignor 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 and/or health information placed in the repository related to the horse to the extent such records have been provided by owner/consignor. Buyer shall be assumed to have knowledge of any fault, defect or condition that a reasonable inspection of the horse or the radiographs or the health information 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/consignor 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,** with the exception of Owner's Limited Warranty Conditions.

#### **C. Repository, Announcements 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 warrantees are expressly disclaimed by Auctioneer.
4. Knowledge of the information in the repository shall not be imputed to Auctioneer under any circumstances.
5. Owner/Consignor is solely responsible for providing radiographs and/or other health information placed in the repository on horses offered for sale. Owner/Consignor shall be solely responsible for informing Auctioneer of any faults, defects or conditions of horses offered for sale so that proper announcements disclosing the same can be made during the sale. Owner/Consignor shall be solely responsible for any failure to disclose the same to Auctioneer and, in any event, for any omission of announcement by Auctioneer. Owner/Consignor shall **INDEMNIFY AND HOLD HARMLESS AUCTIONEER, AND/OR ANY AGENT, EMPLOYEE OR REPRESENTATIVE THEREOF, FOR ANY CLAIM ARISING FROM ANY ANNOUNCEMENT OR FAILURE TO ANNOUNCE OR FROM ANY INACCURACY IN OR OMISSION FROM THE RADIOGRAPHS OR HEALTH INFORMATION IN THE REPOSITORY.**
6. Information supplied to the repository becomes the property of Auctioneer and may be used in the event of a dispute. Auctioneer will not announce the results of radiographs.
- D. All Owners/Consignors 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 Certificate of Veterinary Inspection (Health Certificate) issued to the Auction Grounds, dated within 25 days of the sale.

**THIRD: 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 Conditions Fifth and Sixth below, or pursuant to the binding arbitration procedures stated in Condition Fifteenth below.

### **FOURTH: EXCLUSION OF WARRANTIES AND "AS IS" SALES**

**A. All sales are "as is":** Subject only to Owner/Consignor's Limited Warranties expressed in Conditions FIFTH and SIXTH 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/Consignor Only:** Neither Auctioneer, sponsors, employees or representatives make any representation 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/consignors and prospective bidders/buyers which differ from these conditions of sale.

**FIFTH: OWNER/CONSIGNOR'S EXPRESS LIMITED WARRANTIES AND BUYER'S LIMITED RIGHT OF RETURN.**

**A. Owner/Consignor's Limited Warranties:** Unless otherwise stated in the sale catalog and/or unless otherwise announced at the time of sale on Owner/Consignor's behalf, Owner/Consignor makes the following limited warranties and only these warranties to potential bidders and buyers:

1. Owner/Consignor 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 respective breed association's requirement of parentage.
2. Owner/Consignor warrants that the horse is not a cribber or weaver.
3. Owner/Consignor warrants that the horse does not possess any deviation from the norm in eyes and mouth.
4. Owner/Consignor warrants that yearlings, two-year-olds and horses sold under saddle are sound of wind, have not been nerved.
5. Owner/Consignor warrants that the horse has not been foundered nor has it been diagnosed with navicular disease or any chronic lameness with the exception of mares sold broodmare sound only.
6. Owner/Consignor warrants that owner has no knowledge of the horse possessing any genetic disorder.
7. Owner/Consignor warrants that the horse has not undergone abdominal surgery.
8. Owner/Consignor warrants that the horse does not possess known neurological disease, including Equine Protozoal Disease (EPM) or Wobbler's.
9. Owner/Consignor 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 cryptorchid or ridgeling. When both testicles have been removed surgically, such horse will be announced as a gelding.
10. Owner/Consignor warrants that each horse offered for breeding is suitable for breeding.

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

**C. Exclusion of All Other Warranties:** THE LIMITED WARRANTIES STATED IN THIS CONDITION NO. 5 and CONDITION NO. 6 ARE THE ONLY WARRANTIES MADE BY OWNER. AUCTIONEER MAKES NO WARRANTIES WHATSOEVER.

**D. Cloning Rights:** Owner/Consignor 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/Consignor for future cloning or for frozen embryos retained by Owner/Consignor for future implantation, 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. Breeding Rights:** Owner/Consignor agrees that exclusive breeding rights to the animal sold pass to Buyer unless otherwise announced. Neither Auctioneer, Sales Management, nor pedigree research company retained by Auctioneer shall be responsible for providing information regarding lifetime transferable breeding rights that pass to Buyer with the purchase of a stallion. Auctioneer, Sales Management, and pedigree research company assume NO RESPONSIBILITY whatsoever for omissions in the catalog or announcements pertaining to lifetime breeding rights on stallions. Owner/Consignor shall be solely responsible for any omission of information regarding passage of lifetime breeding rights.

**F. 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/Consignor's limited warranties or that must be announced as provided and which was not so announced shall be subject to return to Owner/Consignor, 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/CONSIGNOR 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. PLEASE BE AWARE OF THE TIME REQUIREMENTS! The physical condition of horses is subject to material change on a daily basis. TIME IS OF THE ESSENCE. FAILURE TO STRICTLY COMPLY WITH THE NOTICE REQUIREMENTS AS SET FORTH HEREIN SHALL OPERATE TO DISALLOW THE PROTECTION OF APPLICABLE WARRANTY IN FAVOR OF PURCHASERS. 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/Consignor's express limited warranties and to guarantees made by Owner/Consignor (or on Owner/Consignor's behalf through announcement) 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/Consignor 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 Fifteenth below.

3. The right of return as provided in this Condition No. 5 shall be Buyer's SOLE REMEDY. Neither Owner/Consignor nor Auctioneer shall be liable for consequential damages under any circumstances. If it is determined that a horse was sold and misrepresented by Owner/Consignor, all fees associated with the sale become due to Auctioneer by Owner/Consignor.

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. 5 and 6. Buyer shall have absolutely no right of recourse to reject any horse so purchased. The ONLY EXCEPTIONS to this are for Cribbers: If a horse is found to be a cribber and it was not so announced at the time it sold in the ring, the Buyer has the right of return for up to five (5) days after the close of the session in which the horse sold; and a drug test positive: for a drug that was not so announced at the time the horse sold in the ring, and the test was taken within 30 minutes of the time the horse sold in the ring, the Buyer has the right of return at such time the testing laboratory issues the positive drug test result, up to a limit of ten (10) days allowed for the results of the testing to be completed.

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/Consignor 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/Consignor's express limited warranties, or that must be announced and which was not so announced, VOIDS ANY RIGHT OF RETURN BY BUYER TO OWNER.

**SIXTH: BROODMARES:** Final pregnancy status on broodmares will be announced during the sale on behalf of Owner/Consignor 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/Consignor 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 or ultrasound examination within ten (10) days prior to the date of sale.

**SEVENTH: TERMS OF SALE:**

**A. Terms of sale are cash and payment in full must be made within one hour of the completion of the session in which the horse sells. Absentee and Online Bidders must pre-register and make advance payment to ALAN PARKER AUCTIONS.** Pay the Cashier in all cases. Method of payment shall be in U.S. dollars, and shall be Cash, Cashier's or Certified Check, Personal Check (with proper bank letter of guarantee or introduction and picture identification, such as driver's license), Traveler's Checks or Major Credit Card. Foreign Credit Cards cannot be accepted. NO BANK DRAFTS. Checks must be made payable to ALAN PARKER AUCTIONS. A Buyer's Premium of 3% will be added to the purchase price. The Buyer's Premium will be discounted for the part of purchases paid by cash or check. Payment is made directly to ALAN PARKER AUCTIONS. 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. 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. picture identification for Buyer are required upon settlement; provided, however, Auctioneer reserves the right, in its sole discretion, to accept settlement by Buyer without presentation of U.S. identification on terms satisfactory to Auctioneer.

**B. Notice Regarding Failure To Pay:** Any person signing a check 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. If any person shall purchase a horse and not pay for it as prescribed above, the sale management or owner/consignor shall have the right to resell the horse, or at their option, bring legal action in which event buyer agrees to pay all costs of such suit together with reasonable attorney fees as fixed by the court. In the event of resale, the defaulting buyer agrees to pay all costs of resale and price deficiency, if any. Interest of 1 1/2% per month will be charged on the unpaid balance of any account not paid for as set forth in these conditions.

**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 price deficiency and 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. Removal of Horse After Sale:** Unless other arrangements have been made with Auctioneer, Buyer shall remove all horses from the sales grounds by noon the day following 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.

**E. 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.

**EIGHTH: BIDDING PROCEDURES:**

**A. Bidding Procedures:** The person making the highest bid recognized by the 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. In the event that a person other than the recognized Buyer signs the Acknowledgement of Purchase and Security Agreement, such action shall not give such other person any right or title, and immediately that such erroneous signing of the Acknowledgement of Purchase and Security Agreement becomes known to Auctioneer, he shall cause the Acknowledgement of Purchase and Security Agreement to be presented to the recognized Buyer for signature. 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/Consignor to honor any prior bid. The Auctioneer has the right to decline any bids made by parties who have defaulted in former purchases or by persons, who in his judgment are not responsible bidders.

**B. Owner/Consignor's Right To Bid:** The right to bid in the sale is reserved for all Owner/Consignors, including their disclosed and undisclosed agents, unless otherwise announced at time of sale. Buyers agree and acknowledge that Owner/Consignors 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/Consignor elects to repurchase a consigned horse, Owner/Consignor 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 or Sales Office at least thirty (30) minutes prior to the horse being led into the ring for sale; or 3) Instructing Auctioneer. Under no circumstances 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 to be accepted. Owner agrees that Auctioneer is absolved from any liability if these procedures are not strictly followed.

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

**D. 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.

#### **NINTH: 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/Consignor, the recording of the auction 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 /Consignor shall be settled strictly between Buyer and Owner/Consignor by binding arbitration pursuant to Condition Fifteenth 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 Fifteenth of these Conditions of Sale.

#### **TENTH: 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/Consignor 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 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 for Buyer or Buyer's representative. Upon settlement, Buyer will receive a copy of the Buyer's Acknowledgment 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/Consignor 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/ CONSIGNOR 1) immediately upon Buyer's physical delivery of the horse to Owner/Consignor or Owner/Consignor'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/Consignor shall be responsible for reasonable expenses for keep, maintenance and transportation of the horse from the time of sale until return. Additionally, Owner/Consignor 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.

#### **ELEVENTH: REGISTRATION AND BREEDER'S CERTIFICATES**

A. All registration certificates, transfer reports, applicable breeder's certificates and/or registration applications shall be held by Auctioneer until all Buyer's payments clear the drawee's banks and become unconditional credit of payment of account (approximately 21 days). 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/Consignor 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/Consignor, who shall in turn directly deliver such to Auctioneer. Auctioneer will then forward the registration certificate and transfer report to the proper breed association for transfer to the Buyer. In the event that the Owner/Consignor does not forward the paperwork promptly (within 10 days of receipt) to Auctioneer, the Owner/Consignor agrees that all monies for that horse can be refunded to Buyer and it becomes Owner/Consignor's responsibility to get the horse back from Buyer. Any person buying/selling a foal on a pending application agrees that there will be time constraints associated with this process and that Buyer may not be in receipt of the certificate on the horse purchased until there has been adequate time for all of the above events to occur, after which, the breed association will mail the certificate to the Buyer.

C. Original registration certificates and accompanying paperwork will be released to Owner/Consignor for any horses not sold after all sales expenses are paid and any Owner /Consignor 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/Consignor's account with Auctioneer has been paid in full.

#### **TWELFTH: CATALOG INFORMATION AND ANNOUNCEMENTS**

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 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/Consignor. It is also Owner/Consignor's sole responsibility to make certain that only correct statements are made public before or while the horse is in the auction arena. Owner/Consignor is solely responsible for having such announcements made and for their accuracy. Owner/Consignor 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. In the event Owner/Consignor 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/Consignor's representations or warranties are incomplete or inaccurate in any way, Owner/Consignor 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 information that was procured by Auctioneer from third parties on behalf of Owner/Consignor remains the sole responsibility of Owner/Consignor 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 for any verbal statement regarding the horse while in the auction arena or at any other time during the auction process. The auction is governed by these Conditions of Sale and all announcements made during the sale. All participants of the auction 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 made during the sale.

B. Catalog order for the sale will be determined by Auctioneer. **Hip numbers have been assigned by Auctioneer and shall not be removed by Owner/Consignor or Buyer while the horse is on the sale grounds.**

**THIRTEENTH:** Alan Parker, the Auctioneers and clerks do not act for or represent the Buyer or Seller(Owner/Consignor), but merely provide a medium for bringing together the Buyer and Seller for the purpose of sales transactions. Alan Parker Auctions and sales personnel assume no responsibility whatsoever to anyone for blemishes, defects, the physical condition or suitability or health of any horse and make no warranties or representations of any kind in the sale. The Owner/Consignor hereby specifically waives all implied warranties of fitness and merchantability. **ALL RESPONSIBILITY FOR REPRESENTATIONS LIES BETWEEN THE OWNER/CONSIGNOR AND THE BUYER.** Any and all written or verbal health, medical and legal representations are made solely by or on behalf of Owner/Consignor.

**FOURTEENTH: 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 Owner/Consignors, 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/Consignor unless agreed to in writing and signed by Auctioneer.

**FIFTEENTH: BINDING ARBITRATION:**

**A. Claims not involving Auctioneer:** Any controversy between Buyer and Owner/Consignor shall be settled by arbitration between Buyer and Owner/Consignor 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/Consignor 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/Consignor, 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 examination 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/Consignor. 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/Consignor's limited warranties, Auctioneer, in its sole discretion, may elect not to pay Owner/Consignor 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/Consignor, in addition to Owner/Consignor's indemnity obligations all fees associated with the sale become due to Auctioneer from Owner/Consignor. 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/Consignor 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 Hillsborough County, Florida, by an arbitrator chosen in accordance with the Commercial Arbitration Rules of the American Arbitration Association; 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 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 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 Owner/Consignors governed by the foregoing paragraph A., any attendee at the sale, whether or not a Buyer, Owner/Consignor or Bidder, agrees to resolve any claims, disputes, controversies, differences or other matters arising directly or indirectly out of his or her attendance at this sale by binding arbitration in accordance with the foregoing paragraph B.

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

**E. Waiver of Jury Trial:** By virtue of the foregoing arbitration provisions, all Owner/Consignors, 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 this auction.

**SIXTEENTH: USE CAUTION WHILE ON THE PREMISES**

All persons attending the auction do so at their own risk and are urged to use extreme caution. Buyers and spectators are cautioned to be careful while on the grounds and particularly while horses are being sold or shown in the sale ring. Management is not responsible for accidents. **WARNING: UNDER MOST STATE LAWS, AN EQUINE PROFESSIONAL IS NOT LIABLE FOR AN INJURY TO AND/OR THE DEATH OF A PARTICIPANT IN EQUINE ACTIVITIES RESULTING FROM THE INHERENT RISKS OF EQUINE ACTIVITIES.**

**SEVENTEENTH: INDEMNIFY AND HOLD HARMLESS**

A. All Owner/Consignors, prospective bidders and Buyers agree to save, **HOLD HARMLESS AND INDEMNIFY** the auctioneer and his employees and/or the show manager 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/Consignor 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/Consignor'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/Consignor for Misrepresentations or Omissions:** In the event Owner/Consignor 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/Consignor's representations or warranties are incomplete or inaccurate in any way, Owner/Consignor 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/Consignor, 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/Consignor'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 SEVENTEENTH ARE IN ADDITION TO THOSE STATED ELSEWHERE IN THESE CONDITIONS OF SALE, IN OWNER'S CONSIGNMENT CONTRACT OR OTHERWISE.

**EIGHTEENTH:** Admission to the Premises constitutes your agreement to be photographed, filmed, videotaped or otherwise recorded in connection with the shows, sales, and other related activities held in connection with the sale. Attendees agree that their likeness and voice may be broadcasted, distributed or displayed in connection with any promotion created from these events without any compensation being paid to the attendee. The taking of photographs and the making of videos, drawings or paintings during this sale and any related activities are permitted for personal use only. All commercial uses are prohibited without the express written consent of Alan Parker Auctions.

**NINETEENTH:** Alan Parker Auctions LLC and Tom Powers Triple Challenge Futurity assume **NO** responsibility for accidents on the grounds.

**TWENTIETH:** All Sales will be subject to Michigan Sales Tax Policies governing sales of horses.