

CONDITIONS OF THIS SALE
IMPORTANT NOTICES - PLEASE READ

This sale is governed by these Conditions of Sale and all announcements from the auctioneer's stand or otherwise ("Announcements"). All sellers, prospective bidders/buyers, all other interested parties and all sales are bound by and subject to the provisions of the Conditions of Sale as set forth in this catalogue and Announcements.

All prospective bidders are urged to **carefully examine horses** in which they may be interested personally and/or by agents or veterinarians of their choosing **BEFORE bidding** as they are accepting any horse purchased with all conditions and defects except those conditions and defects which are specifically warranted in these Conditions of Sale and were not so announced prior to sale.

Consignors may make arrangements with prospective bidders/buyers prior to sale which differ from these Conditions. In such events C.T.H.S. (Alberta Division) (herein known as the "CTHS") shall have no responsibility in regard to any such agreements, and the enforcement thereof shall be the responsibility of the parties to the agreement.

FIRST APPLICABLE LAW; LIMITATION OF WARRANTIES: The horses included herein are offered for sale according the laws of the Province of Alberta. The right to bid in this sale is reserved for all sellers, including their disclosed and undisclosed agents, unless otherwise announced at time of sale.

THERE IS NO WARRANTY EXPRESSED OR IMPLIED BY CTHS OR CONSIGNOR (INCLUDING OWNER) EXCEPT AS SET FORTH HEREIN, AS TO THE MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OF ANY HORSE OFFERED IN THIS SALE. ALL SALES ARE MADE ON AN "AS IS" BASIS WITH ALL FAULTS AND DEFECTS.

SECOND RESOLUTION OF BIDDING DISPUTES: Should any dispute arise between or among two or more bidders, CTHS shall forthwith adjudicate the dispute, and its decision shall be absolute, final, and binding on all parties. Bids received after the fall of the hammer are not grounds for dispute. Bids acknowledged by bid spotters employed by CTHS are recognized as if tendered to CTHS, but in case of dispute, the bidding on the horse shall be forthwith reopened for advance bids, and if there be no advance, the horse is sold to the person from whom CTHS recognized the last bid. In case of any dispute, advance bidding shall be restricted to the contending parties, but should the recognized bid be reduced below the bid of commencement of dispute then the bidding is reopened to all bidders, regardless of whether or not final bid exceeds bid which was disputed. CTHS reserves the right to reject any or all bids. In the event that the consignor (or his agent) bids in his own horse, then CTHS shall be so notified within thirty (30) minutes of conclusion of that sales session.

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THIRD PASSING OF TITLE; DELIVERY: Title passes to the purchaser at the fall of the auctioneer's hammer, at which time purchaser shall be responsible for the care, custody, control and security for the horse and for all expenses relating thereto. The sale is for cash (unless credit has been established) and when the horse is sold the purchaser shall sign the Acknowledgement of Purchase form forthwith. Right of purchase of the successful bidder, as determined by CTHS, is not impaired in case of signing of Acknowledgement of Purchase by another bidder. Notwithstanding the provisions of this section, CTHS shall have the right of resale accorded by Condition Seventh of these Conditions of Sale.

All risk of injury to the horse becomes purchaser's risk at passing of title. Purchaser agrees to release, defend, indemnify and hold CTHS, and the owners and/or operators of the facilities and their directors, officers, employees, agents and representatives, harmless from all losses, damages, expenses, claims, causes of action or lawyers fees arising out of or related to the possession, care, custody, control or maintenance of any horse on which he or she is the successful bidder, including but not limited to any claims arising out of injuries or damage caused by the horse after the fall of the hammer. The horse will be held for purchaser by consignor until purchaser makes settlement as provided at Condition of Sale Fourth below. Purchaser shall immediately present himself to make settlement if requested by CTHS, but in any case shall so present himself within thirty (30) minutes of conclusion of the sales session in which the horse was purchased. Upon settlement by purchaser, horse will be delivered by means of a "stable release" provided by CTHS to purchaser or his representative. Purchaser or his representative shall present "stable release" to designee of CTHS to remove horse from sales premises after taking possession; but in any case taking possession of the horse by purchaser or his representative shall constitute delivery and acceptance. Unless other arrangements have been made with CTHS, purchaser shall remove the horse(s) promptly from the sales barns after the sale. In addition, should purchaser fail to remove the horse(s) promptly, CTHS may remove the horse(s) from sales premises at purchaser's risk and expense or, in the alternative, charge the purchaser for stable space.

FOURTH TERMS FOR SETTLEMENT; REMEDIES UPON DEFAULT: Purchaser Shall Make Settlement With the Cashier In All Cases. Unless CTHS determines to extend credit to a purchaser, purchaser shall make settlement for the full purchase price for each horse purchased as may be required by CTHS and not later than thirty (30) minutes from the fall of the hammer, such settlement to be in the form of Canadian currency, approved bank cheque or certified cheque. CTHS reserves the right exercisable by it in its sole and exclusive discretion, which shall be final and binding upon all parties to **(1)** refuse to extend credit to purchasers who have unpaid accounts for previous CTHS or other sales, and/or **(2)** refuse the opportunity to bid or to refuse to accept the bid of a purchaser who has an unpaid account from a previous sale, or who has not established his credit with CTHS, or established to the reasonable

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satisfaction of CTHS that payment will be made as required by CTHS, and/or (3) require either collected funds be on deposit with CTHS or, an irrevocable Letter of Credit acceptable to CTHS, prior to accepting any bid(s). Bidders are cautioned that the fact that they may have been extended credit at a prior sale does not necessarily mean that they automatically have credit at this sale and future sales. CTHS further retains the right to demand re-establishment of credit rating for any previous CTHS purchaser prior to their bidding in this sale and CTHS reserves the right at any time and for any reason (except race, sex, color, or creed), including, but not limited to, CTHS's arbitrary determination, to revoke any credit previously established and to therefore refuse to accept the bid(s) of a purchaser who has not established prior to his bid(s), that payment will be made in full within 30 minutes from fall of the hammer. Purchasers whose credit has been approved shall pay in full for the purchases within thirty minutes of conclusion of sales session in which the horse is sold for the full purchase price. Any purchaser who has established credit grants to the CTHS a "Security Interest" in all horses purchased and their Jockey Club and certificates of registration and in any products and proceeds, in the amount of any outstanding sum owed to CTHS on the purchaser's account. The approval or disapproval of a purchaser's credit shall be within the sole discretion of CTHS, exercisable by it in its sole and exclusive discretion, and shall be binding upon consignor, purchaser, and all other interested parties. CTHS may, in its sole and exclusive discretion, elect to make full or partial settlement with consignor despite a default by purchaser.

SUCH ELECTIONS BY CTHS TO PAY THE CONSIGNOR SHALL NOT CONSTITUTE A WAIVER, NOR ESTABLISH A CUSTOM AND SHALL NOT ABROGATE CTHS'S RIGHT TO WITHHOLD SETTLEMENT FROM CONSIGNOR IN ANY CASE WHERE THE PURCHASER HAS DEFAULTED. In no case shall any part of the purchase money be paid directly to the consignor by the purchaser unless otherwise agreed to, in writing, by consignor, purchaser and CTHS. Such payment will not be regarded as valid and will not entitle the purchaser to obtain the horses so purchased in this manner. On final settlement for a horse, or the approval of the purchaser's credit by CTHS, the cashier will issue a "stable release" which must be presented by the purchaser to the stable manager for delivery of the horse as provided in Condition of Sale Third. **Purchasers are cautioned not to lose these "stable releases".**

Defaulters

In the event any purchaser who does not have prior approval of his credit fails to pay cash within thirty (30) minutes from the fall of the hammer or fails to sign the Acknowledgement of Purchase then the purchaser shall be deemed a defaulter and the horse shall re-enter the auction ring during the same sales session, if practicable, and then be sold with the prior attempted sale being void. In the event CTHS, in its sole discretion, determines it is not practicable to resell the horse during the same sales session, then the horse may be resold by CTHS at public or private sale, including on any subsequent day or sales session of the sale in question, without prior notice, for the

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purchaser's account, costs of such sale and lawyers' fees to be borne by the defaulter. Any deficiency owed by purchaser resulting from resale on account of any default which is not collected from the defaulter shall be borne by the consignor and CTHS shall have no responsibility therefore. Purchasers who have purchased on credit and who fail in any respect whatsoever to pay for horses within thirty minutes of conclusion of sales session in which the horse is sold for the full purchase price, shall likewise be in default and CTHS shall have the right to bring suit against the defaulter and/or to repossess the horse and its papers. Any horse purchased by a defaulter may be resold by CTHS at public or private sale, without prior notice, for the purchaser's account, costs of such sale to be borne by the defaulter. **FURTHER, THE PURCHASER IN DEFAULT SHALL BE LIABLE FOR A DELINQUENCY OR LATE CHARGE AT THE RATE OF TWO PERCENT (2%) PER MONTH ON THE UNPAID PURCHASE FROM THE DATE OF SALE UNTIL PAID, COMPOUNDED MONTHLY.** Should such resale fail to satisfy the defaulter's account in full, defaulter shall be responsible for any such deficiency balance and shall pay forthwith to CTHS the amount owing, including late charges, all reasonable lawyers' fees, costs of such litigation and any other damages available to CTHS by law, including reimbursement for expenses in caring for the horse.

FIFTH LIMITATION OF WARRANTIES: OTHER THAN THOSE LIMITED WARRANTIES EXPRESSLY STATED IN THESE CONDITIONS OF SALE, OR UNLESS OTHERWISE EXPRESSLY ANNOUNCED AT TIME OF SALE, THERE IS NO GUARANTEE OF ANY KIND, EXPRESSED OR IMPLIED, AS TO THE SOUNDNESS, CONDITION, WIND OR OTHER QUALITY OF ANY HORSE SOLD IN THIS SALE. HOWEVER, all horses which (i) possess any deviation from the norm in the eyes, or (ii) are "cribbers", or (iii) are a "wobbler" (defined as a horse which suffers from a neurological disease caused by compression of the spinal cord and resulting in lack of balance and co-ordination) must be so announced at time of sale. Consignor shall have the sole responsibility for (i) providing such announcements to CTHS within thirty (30) minutes prior to the time of sale and (ii) the accuracy thereof. Both consignor and purchaser agree that CTHS is absolved from any liability relating to such announcements and both agree to hold CTHS harmless from any loss incurred by either of them relating to such announcements. Any horse whose condition is as aforesaid and is not so announced at time of sale will be subject to return to consignor with refund of purchase price, provided that CTHS is so notified in writing and by veterinary certificate, of such defect **and the rejection or revocation of acceptance on the above grounds shall be within forty-eight (48) hours after the start of the session at which the horse in question was sold. Other than failure to satisfy the aforementioned expressly warranted conditions, no other defects shall constitute a nonconformity, substantial or otherwise, with the terms of the contract.** Any horse sold in this sale after July 1 of his yearling year which is described at the time of sale as a colt and is at such time a gelding or cryptorchid (ridgling); or is described at time of sale as a gelding and is at such time a colt or cryptorchid (ridgling), shall be subject to return to the consignor with refund of purchase price, provided that CTHS

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is notified in writing by the purchaser of such incorrect description with veterinary certificate verifying such incorrect description attached, within forty-eight (48) hours after start of the session at which the horse in question was sold. A cryptorchid (ridgling) is described as a colt which does not have both testes palpable in the entirety within the scrotum. In any case of return of the horse to the consignor in accordance with these Conditions of Sale, consignor shall (a) pay the purchaser or CTHS all proper expenses, including interest thereon at the rate of 12% per annum, incurred by either of them from the time of sale until the return of the horse to the consignor, and (b) reimburse CTHS for any sales proceeds paid to the consignor by CTHS prior to such return, including interest thereon at the rate of 12% per annum and any legal fees incurred by either of them relating to such announcements. Proper expenses include but are not limited to such items as veterinarian charges, vanning and boarding. If consignor's veterinarian disagrees with the veterinary certificate supplied by purchaser, CTHS shall appoint a third veterinarian whose certificate in these circumstances shall be binding upon consignor, purchaser and all other parties absent fraud or bad faith. The Consignor and purchaser acknowledge that the selection process is fair and reasonable to each of them.

SIXTH RESOLUTION OF DISPUTES; HOLD CTHS HARMLESS: Other than those disputes which are subject to binding arbitration as set forth in these Conditions of Sale, disputes among consignor, buyer and/or CTHS arising out of this sale, including but not limited to, any dispute arising under these Conditions of Sale regarding any alleged defect or nonconformity or breach of warranty of fitness, as may be provided herein, of any horse sold, all interested parties agree that CTHS may seek judicial resolution of such dispute and shall be reimbursed for its reasonable costs and expenses, including interest and lawyers' fees as provided in Condition of Sale Fourth, pending determination thereof. In addition, if no party is willing to take possession of the horse which is the subject matter of the controversy, all interested parties agree that CTHS may take all such steps as it deems advisable in the maintenance and care of such horse, including, without limitation, board, veterinary care, and any other reasonable expenditures. Furthermore, CTHS shall have the sole discretionary right, but shall be under no obligation, to sell the horse in controversy at any sale, public or private, and upon such terms and conditions as CTHS may deem appropriate. CTHS has the sole discretion as to making any announcements concerning the condition of the horse prior to resale. Such sale may be made, within the sole and exclusive discretion of CTHS, with or without notice to the consignor or purchaser. All such costs and expenses shall bear interest at the rate of 12% per annum and CTHS shall be reimbursed for the costs and expenses plus interest, thereon, by the party ultimately determined to be the owner of the horse in controversy. In the event the subject horse should be resold, the parties agree that CTHS shall be reimbursed first for any expenses it has incurred in the care of such horse and for its legal expenses with the balance, if any, to be paid to the consignor. Consignor and purchaser agree to hold CTHS harmless for any deficiency or loss the consignor and/or purchaser may incur upon the resale

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of such horse in the event CTHS is unable to resell the horse for an amount equal to or greater than the original purchase price.

SEVENTH REGISTRATION CERTIFICATES: The Registration Certificate for each horse sold must be furnished by the consignor. CTHS will withhold settlement for all sales until all Registration Certificates have been delivered to it.

CTHS reserves the right to withhold delivery of all registration papers for all horses either bought by a purchaser **OR** returned to consignor (in the event of either a withdrawal fee or a chargeback commission) until such times as the purchaser's or consignor's account with CTHS shall have been paid in full. In order to secure payment of the purchase price or sales commission, purchaser and consignor hereby grant CTHS, its successors and assigns a security interest and lien upon the horse or horses together with all registration certificates relating thereto.

EIGHTH CATALOGUE PAGES: The accuracy of all information on the catalogue page(s) is the sole responsibility of the consignor. Consignor shall have the affirmative duty to examine the catalogue page(s), on which horses consigned by him appear, prior to sale and report any inaccuracies to CTHS so that it may make an appropriate announcement at time of sale. While certain information may have been procured by CTHS from third parties on behalf of consignor, it is nonetheless solely the responsibility of consignor to verify the accuracy of such information and to notify CTHS of any corrections prior to sale. Stakes engagements, pregnancy status and all other information so listed are as represented by the consignor, to whom only the purchaser shall look for redress in case of errors or omissions. Information contained in this catalogue concerning foaling place (by state or country) **does not** insure eligibility to races restricted to horses bred and/or foaled in that particular province **nor** does it insure the eligibility of any horse for any awards program sponsored by any province or other entity. Notwithstanding any remedies the purchaser may have as against the consignor, in the event of an inaccuracy or misdescription of any horse listed in this catalogue, the purchaser's sole remedy as against CTHS shall be a refund of the purchase price paid upon return of the subject horse

NINTH RIGHT OF EXCLUSION/BID REFUSAL: CTHS specifically reserves its common law right to exclude any persons whomsoever from the auction area and all lands owned or controlled by CTHS. Notwithstanding, any contrary provision(s) of these Conditions of Sale, if any, CTHS further reserves the right to refuse to accept and/or reject and/or ignore any bid(s) from any person(s) whomsoever, even if credit has been approved or even if payment is tendered or believed to be forthcoming. Provided, however, such exclusion and such refusal to bid(s) shall not be made on the basis of race, sex, color or creed. By accepting the license granted to the public by CTHS to attend the sales, each individual likewise agrees to be bound by this Condition of Sale.

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TENTH AGENTS: Persons acting as agents for principals, irrespective of whether the principal is in attendance at the sale, must file notarized letters of authorization from the principals stating that the agent is acting on their behalf and that the principal will be responsible for agent sales or purchases. Failure to comply with this Condition of Sale will result in the agent being deemed to be a co-obligor with the principal with respect to all matters in connection with or arising out of the sale and impose joint and several personal liability upon such agent for any breach of contract. CTHS may, in its sole and exclusive direction, elect to accept a non-notarized authorization. In the event CTHS accepts such non-notarized authorization which later is shown to be invalid, such acceptance by CTHS shall in no way relieve such agent of personal liability with respect to matters arising out of the sale.

ELEVENTH LIMITATIONS OF ACTION: Any cause of action arising out of the purchase and sale of any horse, or interest therein at this sale, whether it is based in contract or tort, shall be commenced in not more than one year after the sale. **Provided, however,** this limitation of action shall not apply to an action for the recovery from the purchaser of the purchase price, plus interest and expenses, and including repossession of any horses purchased at this sale.

TWELFTH GOVERNING LAWS; VENUE AND JURISDICTION; WAIVER OF JURY TRIAL: The laws of the Province of Alberta shall govern the construction of these Conditions of Sale and the rights, remedies and duties of the parties hereto. In the event of any litigation arising out of these Conditions of Sale or the transactions contemplated hereby, the parties agree that any action or suit shall be brought in a court in the Province of Alberta and the parties hereby consent to the venue and jurisdiction of such courts. The consignor and purchaser, and their respective agents, 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 Sale.

THIRTEENTH DISCLAIMER OF IMPLIED DUTIES: CTHS shall endeavor to protect the interests of both consignor and purchaser, but the duties and obligations of CTHS to such persons shall be strictly limited to those expressly imposed upon CTHS by these Conditions of Sale. **All other duties and obligations, including fiduciary and other duties which might otherwise be imposed upon CTHS by operation of law, are hereby expressly disclaimed, except that CTHS shall be required to exercise that standard of care generally exercised by other comparable horse auction companies.**

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FOURTEENTH MERGER OF AGREEMENT: The consignor (including owner) or CTHS may have made oral statements or published advertisements concerning the soundness or the physical condition of the horses described in the catalogue or this sale generally. Such statements or advertisements do not constitute warranties, shall not be relied upon by the purchasers and are not part of the contract for sale. The entire contract of sale is embodied in these Conditions of Sale, and the Acknowledgement of Purchase, which aforementioned documents constitute the final expression of the parties' agreement, and are a complete and exclusive statement of that agreement. Any attempt on the part of the purchaser to unilaterally alter or modify these Conditions of Sale by making changes on the Acknowledgement of Purchase is prohibited and shall be invalid and unenforceable. Notwithstanding the above, the consignor (including owner) and purchaser may enter into a written agreement which modifies the limited warranties as provided herein, however, any such action by the consignor and purchaser cannot and shall not modify or alter the duties, responsibilities and rights of CTHS as provided in these Conditions of Sale and the Consignor's Contract.

Canadian Thoroughbred Horse Society (Alberta Division)