

CONDITIONS OF SALE

This sale is governed by the Conditions of Sale and the Important Notices within this catalogue. All prospective sellers, consignors, bidders and Buyers and all interested parties are bound by the provisions set forth below and in the Important Notices. There are no other conditions, express or implied. There are no other conditions, nor any warranty, regarding the ability of the yearling being sold to perform any particular function. The breeding records, earnings, and race results are provided in the catalogue for informational purposes only. Each bidder is expected to exercise his own judgement regarding the fitness, condition, and ability or potential of the yearling on which he bids. All horses purchased at this sale are purchased "AS IS" with all existing conditions and defects, except those conditions and defects which are specifically warranted in the Conditions of Sale. If you do not agree with these conditions, please DO NOT BID on any yearlings.

- 1. DEFINITIONS** – As used in these Conditions of Sale: "Company" shall mean Ontario Select Yearling Sale; acting on behalf of Winbak Farm of Canada Inc. and the "Auctioneer" shall mean the licensed auctioneer(s) employed by the Company to conduct this auction sale.
- 2. APPLICABLE LAW** – The horses described in this catalogue are offered for sale pursuant to the laws of the province of Ontario, and any dispute shall be initiated and determined in the province of Ontario.
- 3. RIGHT TO BID RESERVED** – In accordance with the province of Ontario law, the right to bid in this sale is reserved for all sellers, including their disclosed and undisclosed agents, unless otherwise announced at the time of sale.
- 4. BIDDING PROCEDURE** – The person making the highest bid recognized by the auctioneer shall be the Buyer and shall forthwith sign an Acknowledgement of Purchase and Acceptance of Conditions Form. If an Acknowledgement of Purchase and Acceptance of Conditions Form is not presented to the Buyer for signature prior to the commencement of bidding on the next lot offered, the Buyer shall forthwith identify himself to the Auctioneer as the Buyer and shall sign an Acknowledgement of Purchase and Acceptance of Conditions Form as soon as it is presented. If any other person other than the Buyer signs an Acknowledgement of Purchase and Acceptance of Conditions Form for a particular horse, such action shall not confer any right, title or interest in the horse in question. Upon learning of an erroneous signing of an Acknowledgement of Purchase and Acceptance of Conditions Form, the auctioneer shall immediately cause an Acknowledgement of Purchase and Acceptance of Conditions Form to be presented to the true Buyer for execution. The Auctioneer reserves his right to reject any and all bids. If the Consignor or any of his agents "bids in" his own horse, the Company shall be so notified within thirty (30) minutes of the conclusion of the sales session of the day.
- 5. BIDDING DISPUTES** – If a dispute arises involving two or more bidders, the auctioneer shall forthwith adjudicate it, and his 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 the Company are recognized as if tendered by the Auctioneer. In cases of dispute, the bidding shall be forthwith reopened for advance bids and if no advance is made, the horse in question shall be considered sold to the person last recognized as the highest bidder. Advance bidding shall be restricted to the parties to the dispute. However, if, after bidding is reopened, the recognized bid is reduced below the bid previously existing at the commencement of the dispute, bidding shall be reopened to all bidders.

6. SETTLEMENT – Payment for horses must be made to the sale Company cashier within thirty (30) minutes after the conclusion of the sales session of the day. Payment to any other person, including a Consignor, his agent or representative, shall not constitute settlement. Payments may be made as follows: (a) cash (Canadian or U.S. currency), (b) certified cheque or cashier's cheque; (c) traveller's cheques, money order, wire transfer or bank draft; (d) credit card (a service fee of three percent (3%) will be applied). Personal cheques may be accepted provided a valid Standardbred Canada, AGCO or USTA license is presented. Payment in U.S. funds will be accepted at the exchange rate set forth by the Company. This rate may fluctuate and be reset on a daily basis. Any variations to the above payment procedure must be approved by Pat Woods, Sale Manager or Jack Burke, General Manager prior to the commencement of the sale.

Buyers utilizing credit arrangements shall make payment in full within fifteen (15) days from the conclusion of the sale. If payment is made by personal cheque or with credit arrangements, Registration Certificates will be retained until the Buyer's bank has honoured the Company's presentment of the Buyer's cheque. The Company shall hold the Registration Certificates for all horses purchased by any Buyer until the Buyer's account, including HST, late charges and other fees, have been paid in full.

Buyer hereby grants the Company and the Consignor a security interest in and lien upon each animal purchased, its original Registration Certificate, and any products and proceeds thereof to secure payment of the purchase price, HST and other indebtedness owed by the Buyer to the Company and the Consignor, and Buyer hereby appoints the Company as its attorney-in-fact to prepare, execute and file herein. By execution of the Acknowledgement of Purchase for a particular animal, the Buyer acknowledges and ratifies this security interest and lien and the authority given to the Company to execute, deliver, and record the security instruments contemplated hereby.

The Company reserves the right, exercisable in its sole and exclusive discretion, which shall be final and binding upon all parties, (i) to refuse to extend credit to Buyers who have unpaid accounts for previous Company or other sales, and (ii) to refuse the opportunity to bid or to refuse to accept the bid of a Bidder who (a) has an unpaid account from a previous sale, or (b) has not established his financial responsibility with the Company, or (c) has not established to the reasonable satisfaction of the Company that payment will be made within thirty (30) minutes after the conclusion of the sales session of that day. The Company further retains the right to demand re-establishment of credit for any Buyer at previous sales prior to their bidding in this sale; and the Company reserves the right at any time and for any reason (except race, sex, colour or creed), including, but not limited to, the Company's arbitrary determination, to revoke any credit previously established and to refuse to accept bid(s) from any Bidder who has not established, prior to his bidding, that payment will be made in full within thirty (30) minutes after the conclusion of the sales session of the day. The approval or disapproval of a Bidder's financial responsibility shall be within the sole discretion of the Company and shall be final and binding upon all parties.

Each Buyer acknowledges and agrees (i) that the Company and the consignor, and each of them individually, may (but shall not be obligated to) take such action and incur such costs and expenses as they, or either of them, in their sole judgement, may deem necessary or appropriate to preserve, protect and maintain the value of this security interest and lien, as specified in the Acknowledgement of Purchase and Acceptance of Conditions Form, including, without limitation, the payment of stakes fees in respect of each or any horse purchased as such fees become due, and (ii) that any and all costs and

expenses incurred by the Company or the Consignor for this purpose will constitute additional indebtedness of the Buyer which is secured by this security interest and lien.

The Company shall not be bound by any oral or written agreement or alleged agreement varying from these Conditions of Sale between the Buyer and the Consignor. No Buyer shall be entitled to any setoff or credit against the purchase price of any horse, unless written notice of the setoff or credit in favour of the Buyer is delivered to the Company prior to the time the horse enters the sale ring; and no credit or setoff shall be effective for any horse which is subject to a lien or security interest in favour of and third party, unless the third party has consented, in writing, to the setoff or credit prior to the time the horse enters the auction ring.

7. TITLE AND DELIVERY – Title passes to the Buyer at the fall of the hammer, at which time all risk of injury or loss and all responsibility for the horse passes to the Buyer. Responsibility for expenses incurred on the horse, after the fall of the hammer, becomes the Buyer's obligation at the passage of the title. The Buyer or his representative may take possession immediately after the fall of the hammer, but such possession shall not be deemed delivery. Delivery is effected only after the Buyer has presented himself to the cashier and made settlement, which settlement shall be within thirty (30) minutes after the conclusion of the sales session of the day. Upon settlement, delivery will be made in the form of a "Stable Release". After delivery, each Buyer is responsible for the care and feeding of each horse purchased by the Buyer and shall promptly remove each purchased horse no later than 11:00 pm on the day of purchase. If a Buyer fails to comply with this provision, he shall be responsible for stabling and such other reasonable charges as determined by the Company and the Company may have the horse removed at the Buyer's sole risk and expense. Notwithstanding the provisions of this condition 7, the Company shall have the right of resale accorded by Condition 14 of these Conditions of Sale.

8. DEFAULT – The failure of any Buyer (i) to sign an Acknowledgement of Purchase and Acceptance of Conditions Form (ii) to pay for any horse purchased, (iii) to obtain advance approval of credit or financial responsibility, or (iv) to provide and pay for full mortality insurance as required, shall constitute a default. In the event of any such default, the Consignor shall have the right to repossess any and all horses for which proper payment has not been forthcoming and to pursue all available remedies against the Buyer. Furthermore, at the Company's sole and exclusive discretion, the horse may be brought again through the auction ring during the same sales session, if practicable, and may then be sold with the prior attempted sale being voidable by the Company. If it is not practicable to resell the horse during the same sales session, the horse may be resold by the Company at either public or private sale, including on any subsequent day or sales session of the sale in question, without notice to the defaulting Buyer and with the cost of sale and lawyers' fees and expenses to be paid by Buyer. Any deficiency resulting from resale on account of any default which is not collected from the defaulting Buyer shall be borne by the Consignor, and the Company shall have no responsibility therefore. If any horse resold pursuant to such a default sells for an amount greater than the final recognized bid of the prior attempted sale, all additional proceeds of this sale shall be credited to the Consignor and none to the defaulting Buyer. Should any resale fail to satisfy a defaulting Buyer's account in full, the Buyer shall pay the Company, forthwith, the amount owing, including late charges.

Any Buyer declared in default shall be liable for a Delinquency or Late Charge at the rate of one and one-half percent (1.5%) per month on the unpaid purchase price from the date of sale until paid (representing an effective interest rate of eighteen percent (18%) per annum). If these payments are

not made, the Company may institute suit either in its name or in the name of the Consignor against the defaulting Buyer. All parties agree that all litigation shall take place in Brampton, Ontario. The Buyer shall pay any and all costs of suit incurred by the Company and/or the Consignor, including reasonable lawyers' fees and expenses and any other damages available to the Company by law, including reimbursement for expenses in caring for the horse in question.

9. ANNOUNCEMENTS – Each horse is sold with a halter, a Certificate of Registration and a negative “Coggins” test certificate. Horses catalogued in this sale are offered with their pedigrees, eligibility for incentive programs and stake engagements, as represented by the Consignor. The Company, although it has made reasonable efforts to state Catalogue information correctly, is not responsible for the accuracy of any information provided either in the catalogue or from the auction stand, such information being as represented by, and the exclusive responsibility of, the Consignor. Announcements from the auction stand shall take precedence over the catalogue. It is the responsibility of the Consignor to verify the accuracy of all information and to notify the Company, prior to the sale, of any corrections, errors, or omissions or additions prior to the offering of any horse for sale in the sale ring. A Buyer shall seek redress only against the Consignor in case of an error or omission. The Consignor and the Buyer agree to hold the Company harmless from and against any and all liability or responsibility for any such errors or omissions.

10. RETURNS OF PURCHASED HORSES – Unless otherwise expressly announced at the time of sale and except for the warranties of the Consignor set forth below in this condition 10, there is no guarantee or warranty of any kind, express or implied, as to the health, soundness, condition, merchantability, or fitness for any particular purpose of any horse offered in this sale.

Unless otherwise noted in the catalogue or announced at the time of the sale, the Consignor warrants that the following are true both at the time of Consignment and at the time of this sale: (i) that each consigned horse is correctly described in the catalogue as a colt, a ridgeling, a gelding, or a filly; (ii) that no consigned horse has been conceived as a result of embryo transfer; (iii) that no embryo, egg, semen or other genetic material (other than genetic material required and used for DNA testing and other nonreproductive purposes) has been harvested from any consigned horse; and (iv) that each consigned horse is duly registered as a Standardbred with the appropriate authority.

Any horse whose condition is contrary to the Consignor's warranties as set forth in the immediately preceding paragraph of this condition 10 and is not so announced at the time of sale will be subject to return to the Consignor with refund of the purchase price, provided (i) that the Company is actually notified in writing and by a veterinary certificate of such defect or variation, and (ii) that the rejection or revocation of acceptance on the above grounds occurs and the veterinary certificate is received by the Company within forty-eight (48) hours after the start of the sales session at which the horse in question was sold. If the Consignor's veterinarian disagrees with the veterinary certificate supplied by the Buyer, the Company shall appoint a third veterinarian whose certificate in these circumstances shall be binding upon the Consignor, the Buyer and all other parties, absent fraud or bad faith. The parties acknowledge that they expressly waive any requirement that the third-party veterinarian conduct a hearing and further waive any right they may have to participate in any arbitration procedure other than as provided in these Conditions of Sale.

All horses in this sale have been DNA tested for parentage certification, with the results furnished or to be furnished to the Company. If any unprocessed DNA results prove to be negative (such that the horse

does not qualify for the parentage indicated in the catalogue), the Company shall notify the Buyer and the horse in question shall be returned to the Consignor with refund of the purchase price.

In any case, in which a horse is returned to the Consignor in accordance with these Conditions of Sale, the Consignor shall pay all proper expenses incurred on the horse from the fall of the hammer until the return of the horse to the Consignor. Proper expenses include, but are not limited to, such items as veterinary charges, vanning, and boarding.

The parties acknowledge that only the conditions set forth in this condition 10 will permit cancellation of sale, and that cancellation hereunder shall be the Buyer's sole and exclusive remedy. In all other respects, the "AS IS" nature of this sale remains in full force and effect. Other than failure to satisfy the aforementioned expressly warranted conditions, no other defects shall constitute nonconformity, substantial or otherwise, with the terms of the contract.

11. AUTHORIZED AGENTS – Only those persons acting pursuant to notarized letters of authorization or with the Company's approval may act on behalf of a principal, whether or not the principal is in attendance at the sale. If the Company accepts a non-notarized authorization which is later shown invalid, such acceptance by the Company shall in no way relieve the agent of personal liability with respect to all matters arising out of this sale. Any person purchasing a horse as an agent without a notarized letter of authorization or the Company's prior written approval shall be personally liable for all matters in connection with the purchase of the horse, including payment of the purchase price and all other obligations arising out of these Conditions of Sale. The Company may pursue the agent and/or principal, jointly and severally, for the full purchase price and all other obligations of the Buyer in connection with the purchase of such horse. All persons acting as agents for principals are also responsible for ensuring that the principal either has approved credit or makes settlement for the full purchase price for each horse purchased no later than thirty (30) minutes after the conclusion of the sales session of the day. By signing the Acknowledgement of Purchase and Acceptance of Conditions Form, regardless of the Form of the signature, a person acting as agent agrees to be personally liable, jointly and severally, with the principal, for the full purchase price of the horse purchased if the principal either does not have approved credit or does not make settlement for the full purchase price within thirty (30) minutes after the conclusion of the sale session of the day.

12. HARMONIZED SALES TAX (HST) – Each horse offered for sale in this catalogue is subject to thirteen percent (13%) Harmonized Sales Tax, which must be paid by the buyer in addition to the purchase price. This tax will be applied to all horses purchased at the sale, there are no exemptions. However, there will be an HST Rebate Application Form available in the Sales Office by request.

13. ARBITRATIONS OF CONTROVERSIES – Any dispute, controversy or claim between or among the Consignor, the Buyer and/or the Company arising out of this sale, including, but not limited to, any dispute, controversy or claim arising under these Conditions of Sale (other than bidding disputes covered in condition 5, the remedies of the Company in the event of payment defaults by a Buyer covered in condition 8, and the resolution of disputes regarding returns of purchased horses covered in condition 10), shall be finally settled by arbitration among the parties in a hearing before a single arbitrator, chosen by the Company from a list of Ontario Arbitrators who are members of the Ontario Section of National Academy of Arbitrators. All arbitrations shall take place in Brampton, Ontario; in accordance with the Ontario Arbitration Act, 1991, except that section 35 of that Act shall not apply. Any award determination rendered therein shall be conclusive and binding upon the parties and

judgement thereon may be entered in any court of competent jurisdiction. The Company shall be reimbursed by the parties for any reasonable legal fees and costs incurred by the Company in the arbitration and any related court proceedings. The Company also shall have the right, but not the obligation, to pursue arbitration on behalf of any aggrieved party.

14. COMPANY RIGHTS DURING PENDENCY OF CONTROVERSIES – If, during the pendency of any dispute, controversy or claim described in condition 14, no party is willing to take possession of the horse which is the subject matter of the dispute, all interested parties agree that the Company 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, and that all costs incurred by the Company shall be reimbursed by the Buyer upon demand, unless otherwise ordered by the arbitrator or other body of competent jurisdiction.

The company shall also 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 the Company may deem appropriate. Such sale may be made within the sole and exclusive discretion of the Company, with or without notice to the Consignor or the Buyer. All costs and expenses incurred by the Company in connection with any such sale shall bear interest at the rate of eighteen percent (18%) per year, and the Company shall be reimbursed for such costs and expenses, plus interest thereon, by the party ultimately determined to be the owner of the horse in controversy. If the subject horse is resold, the parties agree that the Company and/or Consignor shall be reimbursed first for any expenses that they have incurred in the care of the horse and for their legal expenses, with the balance, if any to be paid to the appropriate party. The Consignor and the Buyer further agree to hold the Company harmless from and against any deficiency or loss that the Consignor and/or Buyer may incur upon the resale of such horse in the event that the Company is unable to resell the horse for an amount equal or greater than the original purchase price.

The Company will endeavor to protect the interests of both the Consignor and the Buyer, but the duties and obligations of the Company to such persons shall be strictly limited to those expressly imposed upon the Company by these Conditions of Sale. All other duties and obligations, including fiduciary and other duties which might otherwise be imposed upon the Company by the operation by law, are hereby expressly disclaimed, except that the Company shall be required to exercise that standard of care generally exercised by other comparable horse auction companies.

15. RECORDING AND PUBLICITY – Notice is hereby given to all participants at this sale that the Company may record any portion of the entire sale by video, audio, photograph, or other means. Each purchaser and its representatives, successors, and assigns hereby grants to the Company, the Consignor, and/or breeder of any horse purchased at this sale, and the representatives, successors, and assigns, the absolute right to copyright and publish, use, or reuse the name or performance of as well as any photograph/print film, or videotape footage or audio, digital, electronic, or other reproduction of any horse purchased at this sale, in whole or in part, in the composite or distorted character, with or without the use of names, in colour or otherwise, for the purpose of promotion, advertising, trade, or other lawful purpose in any and all media anywhere in the world. Purchaser and its' representatives, successors, and consignors waive any right to inspect and/or approve the finished product or the copy that may be used in connection therewith or the use to which it might be applied.

16. MERGER OF AGREEMENT – All announcements at the sale and the Important Notices within the catalogue are incorporated in these Conditions of Sale and make a part of the agreement for the sale of each cataloged horse. The Consignor or the Company may have made oral statements or published advertisements concerning the horses described in this catalogue or this sale generally. Such statements or advertising do not constitute warranties, shall not be relied upon by the Buyer, and are not part of the agreement for sale. The entire agreement for sale is embodied in these Conditions of Sale, the Important Notices within this catalogue, the Agent Authorization Form (if any), the Credit Application (if any), the announcements, and the Acknowledgement of Purchase and Acceptance of Conditions of Sale Form. Any attempt on the part of the Buyer to unilaterally alter or modify these Conditions of Sale by making changes on the Acknowledgement of Purchase and Acceptance of Conditions Form is prohibited and shall be invalid and unenforceable. These aforementioned documents, as modified by the announcements, made pursuant to condition 9, constitute the final expression of the parties agreement and are a complete and exclusive statement of that agreement. Notwithstanding, the above, the Consignor (including the owner) and the Buyer may enter into a written agreement which modifies the limited warranties as provided herein; however, no such action by the Consignor and the Buyer shall modify or alter any of the duties, responsibilities and rights of the Company, as provided in these Conditions of Sale and the Consignor's Contract.