

# AGREEMENT GOVERNING SALES

IT IS EXPRESSLY UNDERSTOOD BY ANY CONSIGNOR THAT ALL ANIMALS IN THIS SALE ARE ENTERED IN ACCORDANCE WITH THIS AGREEMENT AND UNDERSTOOD BY PURCHASER THAT SAME ARE PURCHASED IN ACCORDANCE WITH THIS AGREEMENT AND THE PURCHASE ACKNOWLEDGEMENT.

## I.

### TERMS AND CONDITIONS

The consignor agrees that all animals shall be at the place of sale in proper time (same being 8:00 A.M.), delivered free of expense to our sale grounds, and subject to our directions for sale by auction. A negative six month Coggins test and a 30-day veterinarian's Certificate for each entry is strictly required.

The animals consigned to The Kentucky After Christmas Sale, Inc. are entirely at the risk of the Consignor until sold. Conditional title passes to the Purchaser at the fall of the gavel so that, at such time, all risk and responsibility for the animal is assumed by the Purchaser and the animal becomes Purchaser's sole and absolute responsibility. It is expressly understood that The Kentucky After Christmas Sale, Inc. acts only as Consignee at such sales.

The Consignor guarantees the title of the property to the Purchaser and hereby represents that there are no claims against, nor lien upon, nor ownership, in whole or in part, of any animal entered by him that can in any way interfere with the said animal's rightful sale and delivery, or that can hereafter deprive the Purchaser of full, complete, and peaceful ownership. The Consignor further agrees that all defects, tricks, unsoundness, or faults of any nature known to the Consignor will be stated, and that no animal suffering from any contagious disease or that is unsafe or vicious, will be sent by him to any sale.

The Consignor agrees that he will be present in person, or have a fully authorized representative present, acknowledged as his agent, to make true representations respecting each animal. He further agrees that he will defend any suit at law or equity brought by person against The Kentucky After Christmas Sale, Inc. by reason of or on account of, the sale of his animal or animals.

In case any Purchaser fails to pay for and / or pick up any animal sold to him, The Kentucky After Christmas Sale, Inc. is authorized to accept the purchase price from another person or persons, or in the alternative The Kentucky After Christmas Sale, Inc. may put the said animal up for auction a second time. In the event that the latter method is selected and the highest bid on said animal is less than the original bid by the original Purchase, the Consignor of said animal agrees to receive the animal back as unsold and hold The Kentucky After Christmas Sale, Inc. harmless from any liability therefore, unless the said Consignor is present and agrees to take the last bid made on said animal when same is sold the second time.

## II.

### CATALOG FEES AND COMMISSIONS

Full commission, and any and all fees, will be charged on any animal entered and/or sold through or by reason of a sale held and conducted by The Kentucky After Christmas Sale, Inc. There are four separate categories that a consignor may choose which have different cost associated with each. Consignor shall select the category of his choosing at the time the animal is entered by him/her in the Sale. The four categories are as follows: (1) "CONVENTIONAL, WITH RESERVE." The animal is selling, subject to the Consignor/Owner's Right of Refusal. The catalog fee, which is due at the time of entry, is \$200.00. The catalog fee is separate from and does not apply to the commission charged. The Consignor/Seller shall also pay and be charged a commission equal to 5% of the final bid price, if he chooses to sale the animal at the final bid price. (2) "TRADITIONAL, WITH RESERVE." The animal is selling, subject to the Consignor/Owner's Right of Refusal. The catalog fee, which is due at the time of entry, is \$250.00. The Consignor/Seller shall not be charged a commission on the sale of the animal. (3) "PREMIER." The animal is selling, subject to the Consignor/Owner's Right of Refusal. The catalog fee, which is due at the time of entry, is \$300.00. The Consignor/Seller shall not be charged a commission on the sale of the animal.

For all categories where Consignor/Owner has the Right of Refusal, Consignor or Consignor's Agent must advise the Auctioneer of his desire to accept or refuse the final bid on said animal before the animal leaves the ring.

All Consignors, in addition to the fees and commissions described above, shall be charged and shall pay a Veterinarian Inspection (VET) Fee and a Horse Industry Inspection (DQP) Fee.

All Consignors, in addition to the fees and commissions described above, shall be charged and shall pay the cost of transferring the Registration papers to the Purchaser. Including any back cost that may be assessed to complete the transfer by the particular Registry or Registries associated with the entry.

## III.

### BUYER'S SERVICE CHARGE

Purchasers shall be charged and hereby accept and agree to pay a Buyer's Service Charge in an amount equal to \$100.00 per each entry, animal, or lot purchased.

## IV.

### SETTLEMENT

Financial settlement with a Consignor for any animal sold will be made by The Kentucky After Christmas Sale, Inc. only at such time as the Purchaser's credit card or check for payment in full for the animal purchased has been paid by the Purchaser's bank, and The Kentucky After Christmas Sale, Inc. is under no obligation to make financial settlement with Consignor until such time as Purchaser's credit card or check has been paid by bank and fully credited to Kentucky After Christmas Sale, Inc.'s bank account. The Kentucky After Christmas Sale, Inc. IS UNDER NO OBLIGATION TO MAKE FINANCIAL SETTLEMENT WITH CONSIGNOR UNLESS PURCHASER'S CREDIT CARD OR CHECK CLEARS BANK. Should any credit card charge or check fail to be honored by a Purchaser's bank, REGARDLESS OF THE REASON, Consignor shall have full responsibility for the recovery of the animal or collection of the funds represented by Purchaser's payment method and The Kentucky After Christmas Sale, Inc., agrees to make a diligent effort to cooperate with Consignors to collect Purchaser's check and to assist Consignor in the recovery of the animal; provided, however, The Kentucky After Christmas Sale, Inc. does not act as guarantor to the credit of any purchaser and reserves the right to withhold financial settlement with a Consignor until such time as collection of the credit card or check or recovery of the animal has been effectuated. Consignor will be paid on or before 30 days from the date of the sale, if all of the above conditions have been met. Additionally, Consignor will only be paid after they have provided all of the required registration documents fully signed and acceptable for transfer by the breed registry.

Except for unregistered horses or where Seller and Purchaser have reached a different agreement, the Kentucky After Christmas Sale, Inc., will transfer ONLY TWHBEA, SSHBEA, NSSHA,

KNSHA, SMHA, RMHA, AGMA and RHBA papers to the new owner, and the Consignor hereby agrees to pay the costs involved in transferring ownership of the animal. These eight associations are the ONLY associations the Kentucky After Christmas Sale, Inc., will handle the transfer of papers to the new owner. All other papers will be mailed to the Purchaser after the sale and after the Purchaser's check and/or credit card charge clears.

## V.

### CONSIGNORS / PURCHASERS

The Kentucky After Christmas Sale, Inc. reserves the right to have a veterinarian examine any animal before it enters the sale ring, therefore, please have your animal on the sale grounds no later than 8:00 A.M. on the day that said animal is to sell. All animals must pass veterinarian's inspection, as well as the inspection by the affiliating HIO DQP. Cost of the veterinarian inspection and the HIO DQP inspection, prior to horse entering the ring, shall be paid by the Consignor, and shall be paid to the Kentucky After Christmas Sale Inc., at the sale office or deducted from the Consignor's proceeds. All animals must be shown with legal equipment only. The guarantee of soundness of any animal is made in the part of, and responsibility of, the Consignor. Ages, heights, markings and other matters of that character are approximated by the Consignor, and are not guaranteed unless expressly announced. We endeavor to verify records and have them authentically stated, but bidders should examine for themselves, and the catalogue statements may be in error, and only such parts as the Auctioneer shall specially designate are warranted. The Consignor is the responsible party for representations, not The Kentucky After Christmas Sale, Inc. Buyer's are cautioned to pay attention to Auctioneer's announcements, as these will take precedence over the printed matter.

After the horse is sold, the Purchaser should at once examine the animal, and if warranty of representation is challenged, the matter must be reported at once to Sale Manager, and no legal liability shall be involved by The Kentucky After Christmas Sale, Inc. from the Purchaser or Consignor in consequence of such decisions.

Any Consignor who has not pre-mailed his registration papers must provide them, fully executed, to The Kentucky After Christmas Sale, Inc. by no later than the date of the sale of said animal. Any papers not signed prior to sale date must be signed by Consignor no later than the date of sale. Any unsigned registration papers may be signed by a Consignor at our sale desk.

## VI.

### TERMS

The Purchaser shall immediately (and no later than ten (10) minutes after the fall of the Hammer) sign the Purchaser Acknowledgment form. If the Purchaser Acknowledgment form is not presented to the Purchaser before the start of the bidding on the next horse, or within 10 minutes of the fall of the hammer, whichever, is earlier, the Purchaser shall immediately contact the Auctioneer. In the event the Purchaser fails to sign the Purchaser Acknowledgment from within such time, the Purchaser shall be liable for default pursuant to these conditions and the horse may be resold during the auction at the Auctioneer's election, in which event the Purchaser shall be liable to the Consignor for damages in an amount equal to the difference between the price brought upon the initial auction and that brought on resale, and the Purchaser shall be liable to the Consignor for damages in an amount equal to the difference between the price brought upon the initial auction and that brought on resale, and the Purchaser shall be liable to the Auctioneer in an amount equal to 10% of the initial auction price as liquidated damages; and risk of loss transfer to the new Purchaser at the fall of the hammer. If the horse is not resold, the Consignor shall, at Consignor's option, have (1) a right against the Purchaser for the price of the horse and to enforce the contract of sale, or (2) the right to keep the horse, in which latter event the Purchaser shall be liable to Consignor for liquidated damages in the amount of 10% of the Purchase Price; and in either event, the Purchaser shall be liable to the Auctioneer for the commission and for liquidated damages equal to 10% of the Purchase Price. The Consignor shall notify the Auctioneer of its election immediately upon request by the Auctioneer. All amounts due upon default shall bear interest at the rate of 1 1/2% per month. The parties acknowledge that such liquidated damages are fair and reasonable, and that actual damages are difficult to determine. The Auctioneer shall not be liable for any deficit should the final bid on resale be less than that on the initial sale.

Purchaser will make settlement for horses purchased within thirty (30) minutes of the conclusion of the sale session on the day of purchase for the full purchase price. Settlement is to be in the form of U.S. currency, certified or cashier's check, traveler's check, personal check or credit card. All payments made other than cost, shall be considered conditional payment only until the amounts paid and owed are fully credited to The Kentucky After Christmas Sale, Inc. bank account.

No animal will be released until settlement is made by the Purchaser. Upon payment, the clerk will issue a release which must be presented to the Stable Manager for delivery of the horse.

## VII.

### BIDDING DISPUTES

Auctioneer will settle any disputes as to bids. Should any dispute arise between or among two or more bidders at the Auction, the Auctioneer shall forthwith settle the dispute. The Auctioneer's decision shall be final and binding on all parties. Bids made after the Auctioneer has said sold are not grounds for dispute. In case of dispute brought to the attention of the Auctioneer after the fall of the hammer, the bidding may be reopened for advance bids, but advance bidding shall be restricted to the disputing parties.

## VIII.

### ANNOUNCEMENTS

Any announcement from the Auction Box will take precedence over the printed matter in this catalog and all other prior announcements.

## IX.

### LIABILITIES

Any person who attends any sale held and conducted by The Kentucky After Christmas Sale, Inc. does so at his or her own risk, and The Kentucky After Christmas Sale, Inc., assumes no responsibility, legal or otherwise, for any accident that may occur on the grounds of said sale. Any animal consigned to The Kentucky After Christmas Sale, Inc. is entirely at the risk of the Consignor until the animal is sold and until satisfactory financial settlement for the horse is made, either by cash, credit card, or check. At such time as the gavel falls, the animal becomes the sole and absolute responsibility of the Purchaser, and the Purchaser assumes all responsibility and liability for said animal. In no event does The Kentucky After Christmas Sale, Inc., assume any responsibility for any damage at any time to any animal consigned for sale.

It is expressly declared here in by The Kentucky After Christmas Sale, Inc. that injury to any person as a result of the conduct of any animal consigned for sale by The Kentucky After Christmas Sale, Inc., before, during or after the sale of said animal, shall be the sole responsibility of the

Consignor of said animal until the fall of the hammer, at which time the responsibility for the conduct of the animal rests on the Purchaser.

Consignor and Purchaser hereby agree and understand that the Kentucky After Christmas Sale, Inc. shall have no liability for any animal that shall become missing or stolen from the sale facility or stables. The area in and around Alltech Arena, and the stable area, is un-fenced, as relating to fenced security, and difficult, if not impossible, to secure properly. The Kentucky After Christmas Sale, Inc. shall provide a check-in / check-out staff person that shall be on site 24 hours a day beginning at 6:00 pm the day before the auction sale shall begin, and continuing until 11:00 am on the day following the end of the sale. This service is to help the Kentucky After Christmas Sale, Inc. maintain a count of the horses on-site and prevent the removal of any horse without the proper documentation; however, this service is not a security service and should not be interpreted as protection for the loss of or supervision of your animal. Consignor and Purchaser hereby agree to hold harmless the Kentucky After Christmas Sale, Inc. for any and all liability related to a loss or stolen animal. Additionally, Consignor and Purchaser hereby agree that ownership of the animal at the time of loss, should such occur, shall be as described elsewhere in this agreement.

All potential purchasers are on notice that matter disclosed in the catalogue, disclosed in the file with the Auctioneer, or read by or announced by the Auctioneer or any agent of The Kentucky After Christmas Sale, Inc. regarding the soundness or condition of any animal is only a notification by The Kentucky After Christmas Sale, Inc. to interested parties as to the claims made or information furnished by the owner or an independent licensed veterinarian and purchasers understand and must agree that The Kentucky After Christmas Sale, Inc. is not responsible for nor guaranteeing said claims or information nor is it responsible to determine the accuracy of said claims.

#### **X. ARBITRATION**

Any controversy or claim between or among the Purchaser, the Consignor and / or Auctioneer arising out of this Agreement or in connection with the auction shall be settled by arbitration among the parties in accordance with the rules of the American Arbitration Association. Such arbitration shall take place in Lexington, Kentucky. Judgement upon any award rendered by the arbitrator (s) may be entered by any party in any court having jurisdiction thereof. The Auctioneer will be entitled to reimbursement.

#### **XI. RIGHT TO BID RESERVED**

In accordance with Section 355.2.238 of the Kentucky Revised Statutes, the right to bid is reserved for all Consignors in this sale unless otherwise announced at time of sale.

#### **XII. MISCELLANEOUS**

(a) The above provisions shall constitute a contract between The Kentucky After Christmas Sale, Inc., and the Consignor, between The Kentucky After Christmas Sale, Inc. and the Purchaser, and between the Consignor and the Purchaser, regarding each animal sold insofar as they provide and are applicable to the relationship of The Kentucky After Christmas Sale, Inc. to the Consignor, the relationship of The Kentucky After Christmas Sale, Inc. to the Purchaser, the relationship of the Consignor to the Purchaser, and the relationship of the Purchaser to the Consignor.

(b) Once a Purchaser has made settlement for an animal purchase through the sale held and conducted by The Kentucky After Christmas Sale, Inc., and has removed the said animal from the sale grounds, there shall be no recourse regarding the condition of said animal, and a Purchaser's conduct in this respect is to be construed as an acceptance as is of any animal purchased.

(c) Consignor agrees that he will, in addition to the suit of law or equity brought be any person against The Kentucky After Christmas Sale, Inc. by reason of or on account of the sale of his animal or animals, will indemnify The Kentucky After Christmas Sale, Inc. for any and all reasonable expenses, including but not limited to, attorney's fees, incurred in such suit or action.

(d) The Kentucky After Christmas Sale, Inc. shall have the right, in it's absolute discretion, to: (1) reject any horse consigned at any time; (2) determine the order of sale; (3) change stabling assignments; (4) make any announcement at time of sale concerning any horse consigned which is deemed appropriate by The Kentucky After Christmas Sale, Inc. (5) change the time, date or location of the sale, or cancel and/or postpone the event due to unforeseen circumstances.

(e) The Kentucky After Christmas Sale, Inc. sole liability if it should fail to catalogue, or fail to catalogue correctly, any of my consignments, shall be the entry fee for such horse. The Kentucky After Christmas Sale, Inc. shall not be liable or any damages, actual or consequential arising out of any such failure.

(f) Purchasers shall pay Kentucky sales tax in the amount of 6%, or the rate established by the state of Kentucky, of the sales price. Purchasers may be exempt from sales tax if they meet certain qualifications established by the State of Kentucky.

(g) Consignment of a horse is accomplished by mailing or sending by other means registration papers, copies of registration, or information regarding said horse for entry and catalog fee.

(h) Purchasers agree and understand that any mare purchased that has been represented by consignor as being safe in foal, "through the Auctioneer's announcements", may have mare inspected by a licensed veterinarian to verify pregnancy. Said inspection shall be paid for by purchaser, must occur prior to said animal being removed from the sale premises and no later than 12:00 noon the following day; should said inspection results be not in foal, then purchaser shall have the right to reject said animal and nullify said contract, so long as The Kentucky After Christmas Sale, Inc. Manager is notified by 1:00 p.m. on the day following the day the animal sells.

(i) The Kentucky After Christmas Sale, Inc. will make every effort to see that advertising copy and entry information in this catalog is correctly printed, but shall not be liable for failure to publish an entry or ad, or for typographical errors.

(j) The Kentucky After Christmas Sale, Inc. reserves the right to refuse the following:

- (1) To accept any entry that in it's sole discretion is deemed unsuitable
- (2) To accept bids from any individual or entity that in it's sole discretion might be unable to fulfill the terms of the purchase contract
- (3) To allow admittance to any individual that may, in their sole discretion, create a disturbance or otherwise interfere with the sale
- (4) To accept an entry from any individual or entity that it deems inappropriate persons on federal disqualification cannot transport horses to this show and can participate only as a spectator.

**PERSONS ON FEDERAL DISQUALIFICATION CANNOT TRANSPORT HORSES  
TO THIS SHOW AND CAN PARTICIPATE ONLY AS A SPECTATOR.**