



# CONDITIONS OF SALE

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## 1. GENERAL

- (i) In these Conditions of Sale, the following expressions shall have the meanings respectively assigned to them and in each case apply to any sale by the Company whether at auction or by private treaty:
  - (a) “Company” or “NAFA” means North American Fur Auctions Inc.
  - (b) “Auctioneer” means the person who has the conduct of the auction on behalf of the Company;
  - (c) “Lot” means each lot of goods offered for sale by the Company;
  - (d) “Vendor” means any person who is the whole or part owner of any Lot;
  - (e) “Purchaser” or “Buyer” means any person (whether acting on his own behalf or as agent for another) to whom a Lot is sold by the Company and where the context so admits, any Transferee of that Lot;
  - (f) “Auction Purchase Confirmation” means the written confirmation of sale to be issued by the Company pursuant to Clause 4 or Clause 5 hereof (as the case may be);
  - (g) “Transferee” means any person to whom the benefit of any contract sale is assigned by the Purchaser in accordance with these Conditions of Sale;
  - (h) “Prompt Day” means the day appointed by the Company as the day on which the Purchaser is required to pay for a particular Lot.
- (ii) All Lots are offered for sale and sold by the Company, whether at auction or by private treaty sale, solely upon the terms of these Conditions, including the Buyer Charges & Payment Requirements for August 2019, and neither the Vendor nor the Company shall be bound by any other condition, provided that Clauses 2, 3 and 4 shall be inapplicable to sales by private treaty and Clause 5 shall be inapplicable to sales at auction. Any prospective purchaser bidding at the auction hereby in every respect acknowledges the acceptance of these Conditions of Sale. In the event that a prospective purchaser bids on behalf of another individual or legal corporate entity, he/she represents and warrants that he or she has the authority to accept these Conditions of Sale for and on behalf of such individual/legal corporate entity on behalf of whom the bid has been made and accepts these Conditions of Sale, including the Buyer Charges & Payment Requirements for August 2019, in every respect for and on behalf of such individual/legal corporate entity.

## 2. QUALIFICATION TO BID

Any person intending to bid or to purchase at any auction conducted by the Company shall, at least 24 hours prior to the commencement of the auction, comply with such requirements as the Company may impose (including, without limitation, making such arrangements for payments as the Company may require).

## 3. CONDUCT AT THE AUCTION

- (i) The Vendor may, by himself or by his agents:
  - (a) fix a reserve price for any Lot; and/or
  - (b) bid for any Lot.
- (ii) The Company may bid for any Lot as a principal or as agent for the Vendor or any prospective purchaser.
- (iii) The Auctioneer may, without assigning any reason therefore, refuse to accept any bid by any person.

## 4. CONCLUSION OF THE CONTRACT (AT AUCTION)

- (i) The Contract of Sale for any auction shall be concluded by the fall of the hammer on that Lot. The person who makes the highest bid for a Lot which is accepted by the Auctioneer prior to the fall of the hammer on that Lot shall be the Purchaser of that Lot at the price so bid.
- (ii) If, during any auction, there is a dispute in respect of the sale of any Lot (whether between the Company and a bidder or between bidders), such dispute shall be settled as the Auctioneer in his absolute discretion thinks fit and his decision shall be final and binding on the parties. Without limitation, the Auctioneer may, notwithstanding sub-clause (i) above, re-offer for sale any Lot which is the subject of dispute.
- (iii) Not later than the end of the business day following the auction, the Company will issue and make available to the Purchaser an Auction Purchase Confirmation (the “Confirmation”) identifying all Lots purchased at the auction. Purchasers must collect the same at the General Office of the Company and confirm their purchase before the end of that day. If any Confirmation has not been collected by the end of that day, the Company may (but shall not be bound to) send it to the person identified therein as the Purchaser in such a manner as it, in its absolute discretion, thinks fit.
- (iv) Where the Confirmation is made out in the name of the Purchaser, then, unless he proves to the satisfaction of the Auctioneer not later than the end of the second business day following the auction that there is an error in the Confirmation, the Confirmation, whether collected by the Purchaser or not, shall be deemed as against him to be conclusive evidence that he purchased the Lot upon the terms set out therein and he shall accept and pay for the Lot accordingly.
- (v) Where the Confirmation is made out in the name of a person other than the Purchaser, or no Confirmation is issued in respect of a particular Lot, then, unless the Purchaser notifies the Auctioneer in writing of the error not later than the end of the second business day following the auction, the Purchaser shall have no claim against the Company for non-delivery of the Lot.
- (vi) Notwithstanding the foregoing provisions of this Clause, the Company shall at any time be entitled to correct or revise any Confirmation if necessary to correct any error within.

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## 5. CONCLUSION OF THE CONTRACT (BY PRIVATE TREATY)

- (i) Any contract for the sale of a Lot by private treaty shall be concluded at the moment that the parties reach agreement (whether oral or written) thereon.
- (ii) Not later than the end of the business day following such agreement as aforesaid, the Company will issue and make available to the Purchaser a written Confirmation in respect thereof (each such Confirmation covering one or more Lots). The Purchaser shall collect the same at the General Office of the Company before the end of that day.
- (iii) Where the Confirmation is made out in the name of the Purchaser, then, unless he proves to the satisfaction of the Company not later than the end of the second business day following the issuance of the Confirmation that there is an error in the Confirmation, the Confirmation shall be deemed as against him to be conclusive evidence that he purchased the Lot upon the terms set out therein and he shall accept and pay for the Lot accordingly.
- (iv) Where the Confirmation is made out in the name of a person other than the Purchaser, or no Confirmation is issued in respect of a particular Lot, then, unless the Purchaser notifies the Company in writing of the error not later than the end of the second business day following the date of the alleged agreement, the Purchaser shall have no claim against the Company or the Vendor for non-delivery of the Lot.
- (v) Notwithstanding the foregoing provisions of this Clause, the Company shall be entitled at any time to correct or revise any Confirmation if necessary to correct any error therein.

## 6. TITLE AND RISK

- (i) Risk in any Lot shall pass to the Purchaser on conclusion of the Contract of Sale of that Lot.
- (ii) Title to any Lot shall only pass to the Purchaser when he has paid in full the price, the auction or brokerage fees, the packing/handling fee, any applicable taxes, interest, storage and insurance charges and all other sums due to the Company in respect of that Lot, without any set-off, deduction, counterclaim or offset of any kind whatsoever (other than the application of any outstanding credits only as expressly permitted in the Buyer Charges & Payment Requirements for August 2019).

## 7. AUCTION FEE/BROKERAGE FEE

The Purchaser shall pay to the Company an auction fee and a packing/handling fee at the rate set in the applicable Auction Sales Catalogue published by the Company, or where there is no such catalogue a brokerage fee at the rate from time to time charged by the Company. Such fees shall be payable whether the Lot is sold by auction or by private treaty.

## 8. PAYMENT AND SECURITY INTEREST

- (i) Unless otherwise specified in the Buyer Charges & Payment Requirements for August 2019, the price, applicable taxes, the auction or brokerage fee and the packing/handling fee due in respect of the Lot shall be paid to the Company by 3.00 p.m. on the Prompt Day or, where there is no Prompt Day appointed by the Company in respect of a particular Lot, within fifteen business days after the conclusion of the Contract of Sale relative thereto. All interest, storage and insurance charges, and all other sums of money due to the Company or Vendor in respect of the Lot shall be paid to the Company on demand and in any event, no later than the Prompt Day or, where there is no Prompt Day appointed by the Company in respect of a particular Lot, within fifteen business days after the conclusion of the Contract of Sale relative thereto. A receipt for such sums of money will be issued by the Company if the Purchaser so requests.
- (ii) All sums payable hereunder by the Purchaser shall be paid without any set-off, deduction, counterclaim or offset of any kind whatsoever (other than the application of any outstanding credits only as expressly permitted in the Buyer Charges & Payment Requirements for August 2019), in such a manner that the Company is actually put in funds by the time stipulated for payments and, for all purposes hereof, any sum shall be deemed to have been paid only when the Company is actually put in funds in respect thereof.
- (iii) All funds payable hereunder shall be in terms of U.S. dollars, and New York Clearing House Funds. The Company will accept Letters of Credit in payment of goods only in its sole discretion and only if negotiable "at sight" in funds aforesaid.
- (iv) The Company may at any time require the Purchaser to pay a deposit equal to such proportion of the price as the Company may in its absolute discretion stipulate.
- (v) If a Purchaser fails to pay the entirety of any sum due to the Company or the Vendor on its due date, or commits an act of bankruptcy, or goes into liquidation, or becomes insolvent, or has a receiver or manager appointed in respect of it, or makes (or seeks to make) an arrangement with or proposal to its creditors, or suspends payment with respect to any Lot or Lots to which title has not passed to the Purchaser, in accordance with sub-clause 6 (ii) The Company shall, at its option, have the right in addition to any other rights that the Company may have, without notice to the Purchaser or any other formality unless required by law:
  - (a) to retain the Lot free from any claim of the Purchaser (or any successor thereof, including any trustee in bankruptcy) and dispose of such Lot as the Company sees fit (including by reselling the Lot, either by auction or private treaty), in which case (i) all deposits or payments made by or on behalf of the Purchaser in respect of such Lot shall be immediately forfeited by it to the Company, and (ii) the Company shall be entitled

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to retain the proceeds of such disposition (including sale by auction or private treaty) and recover from the Purchaser, the full amount on any deficiency on such disposition, together with all related costs, fees, expenses and charges including, without limitation, reasonable legal fees, the auction fee on the original sale and storage, insurance and interest at the prevailing rates, all calculated from the Prompt Date; or

- (b) continue to hold the Lot for the account of the Purchaser and to seek to complete the sale of such Lot by recovering from it, the full amount owing in respect thereof, including, the price, applicable taxes, the auction or brokerage fee and the packing/handling fee due in respect of such Lot.
- (vi) Interest shall be chargeable on a day to day basis at such rate as the Company from time to time may publish, as well after as before judgment, on all sums from time to time due and payable from the Purchaser to the Company or the Vendor until such time as those sums are recouped by the Company.
- (vii) Any money or merchandise, including proceeds from the sale thereof, deposited with or held by the Company for the account of any Purchaser or Transferee, or any other sum existing as a credit on such account, or any collateral or security of any nature given to secure any indebtedness to the Company shall be applied by the Company in accordance with the terms herein, including the Buyer Charges & Payment Requirements for August 2019.
- (viii) Subject to subclause 8(v)(a) herein, until full payment of all sums owing by the Purchaser is received by the Company, the Company shall retain possession of all goods purchased by the Purchaser. Purchaser hereby grants the Company a security interest in all of its right, title and interest, if any, in pelts or furs purchased, or hereafter purchased, and the products and proceeds thereof (including, for greater certainty, any deposits paid by the Purchaser to the Company), to secure payment of all sums owed by the Purchaser, and remaining unpaid on the purchase, charges provided herein, and any other indebtedness owed by the Purchaser to the Company.

## 9. TRANSFER

- (i) The Purchaser may apply to the Company for the benefit of any Contract of Sale to be transferred to a third party. Such application should be made on a Transfer Form provided by the Company for that purpose. Any application accepted by the Company which is not made on a Transfer Form shall be treated in all respects as if it had been made on a Transfer Form and the parties shall be liable accordingly. The Company may, in its absolute discretion, accept or reject an application without assigning any reason therefore. The Company may require any applicant Transferee to provide such evidence of qualification to purchase as the Company may in its absolute discretion require.
- (ii) The Transferee shall undertake full liability to the Company and the Vendor for the payment of all sums due in respect of each Lot so transferred.
- (iii) Notwithstanding the acceptance by the Company of an application for the transfer of any Lot(s), the original Purchaser of any Lot(s) bought on behalf of a Transferee, as the Transferee's duly authorized broker or agent, shall no longer be liable for any purchased Lot(s) once a 35% deposit has been paid on or before Prompt Day and provided such deposit has been transferred to or otherwise paid for or by the Transferee.

## 10. DELIVERY

- (i) The sale of all lots is EXW the Company's warehouse/storage facility. Upon payment by the Purchaser of all sums due to the Company and the Vendor in respect of a Lot (including without limitation, the price, the auction or brokerage fees, the packing/handling fee, any applicable taxes, any interest due thereon pursuant to sub-clause 8(vi) hereof, storage and insurance charges due thereon pursuant to sub-clause 11(i)(c) hereof and all other sums due to the Company in respect of that Lot), without any set-off, deduction, counterclaim or offset of any kind whatsoever (other than the application of any outstanding credits only as expressly permitted in the Buyer Charges & Payment Requirements for August 2019) and upon presentation of a delivery order signed on behalf of the Purchaser, the Purchaser shall be entitled to collect the Lot.
- (ii) If the Company receives a request from the Purchaser to forward any Lot otherwise than as contemplated in sub-clause 10(i) above, the Company may respond to such request in such manner as in its absolute discretion it thinks fit and without assigning any reason thereof.
- (iii) The Purchaser may upon giving notice thereof to the Company, superintend the counting and weighing of the Lot prior to its packing and dispatch.
- (iv) Packing will be undertaken and charged at the Company's standard rates from time to time in force.
- (v) All packing and forwarding instructions shall be given in writing and the Purchaser shall bear all increased expenses occasioned by such instructions.

## 11. STORAGE

- (i) If the Company agrees that a Purchaser may leave a lot uncollected and that the Company will store the same in its warehouse, such storage will be upon the terms that:
  - (a) the risk in the Lot remains solely with the Purchaser (irrespective of any negligence on the part of the Company, its servants or agents);
  - (b) the Company will arrange for the Lot to be insured against fire and burglary to an amount not exceeding the price of the Lot and otherwise upon the terms from time to time of the Company's insurance policies in that regard; and
  - (c) the storage will be charged to and paid for by the Purchaser at the Company's standard warehouse rates from time to time in force (details of which are available upon request).
- (ii) Should the Purchaser fail to pay any sums due pursuant to the foregoing sub-clause (11)(i), the Company shall be entitled to exercise its power undersub-clause 8(v).

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## 12. EXCLUSIONS

- i) All conditions and warranties, whether expressed or implied by statute, common law or otherwise as to the description, condition, quality, merchantability or fitness for any purpose of any Lot are hereby expressly excluded.
- (ii) The Company and the Vendor accept no liability for any errors in the marks, description or quality set out in any catalogue or wherever otherwise indicated to the Purchaser.
- (iii) Without limitation of sub-clause (ii) above, no liability is accepted by the Company or the Vendor in respect of any indication as to the quality of a Lot given in any catalogue or elsewhere.
- (vi) The Company and the Vendor shall be under no liability to the Purchaser for any loss of whatsoever description suffered by the Purchaser by reason of any misdescription of or defect in any Lot, irrespective of whether any such loss was caused by negligence on the part of the Vendor, the Company, or any of their servants, agents or otherwise.
- (v) While the Company has endeavoured to ensure that each bundle is representative of its respective Lots, the Company gives no undertaking that bulks or Lots have been equalized.

## 13. STRIKES, ETC

If the Company is prevented from carrying out the delivery or any other obligations thereunder by reason of strike, disturbances, intervention, by authority or other incident reasonably beyond the normal control of the Company the Purchaser shall be discharged from any liability towards the Company, which liability the Purchaser shall be obligated to fulfill as soon as the hindrance has ceased.

## 14. COMPANY'S RIGHTS

The Company shall, in addition to the foregoing, have all the rights and remedies available to it under Personal Property Security Acts, the Uniform Commercial Code and other applicable law.

## 15. SUBMISSION TO LOCAL JURISDICTION

The bidder in making his bid and/or purchase consents to be subject to the laws of the Province of Ontario, Canada with respect to all matters related in any way to such transaction and/or his general account with the Company; and further consents that service of process or any other application to such court and/or any other paper pertaining thereto may be made accordingly on or by the bidder or purchaser by registered mail or by personal service outside of Ontario, Canada or in any manner otherwise provided under the laws of Ontario, Canada.

## 16. INCORPORATION OF TERMS, NO SET OFF, ETC.

The terms of the Buyer Charges & Payment Requirements for August 2019 are incorporated in and form a part of these Conditions of Sale and should be carefully reviewed prior to participation in the auction or entering into any private treaty sale. In the event of any inconsistency between these Conditions of Sale and the Buyer Charges & Payment Requirements for 2019, the Buyer Charges & Payment Requirements for 2019 shall govern.

You may request a copy of that document from the Company and it will be delivered with these Conditions of Sale and is also available on the Company's website. Except as specifically otherwise set out herein or therein, all payments payable in connection herewith are due and payable in full without any set-off, deduction, counterclaim or offset of any kind whatsoever (other than the application of any outstanding credits only as expressly permitted in the Buyer Charges & Payment Requirements for August 2019).

By participating in an auction conducted by the Company or entering into a private treaty sale with the Company, you signify your acknowledgement of and agreement to these Conditions of Sale (including, for greater certainty, the Buyer Charges & Payment Requirements for August 2019). Your acceptance of these terms is binding upon you, any Transferee and any parties upon whose behalf you may act and are being relied on by the Company and its business partners in allowing you to participate in the auction. If you do not agree to any of these terms, you shall not participate in any auction conducted by the Company or private treaty sale with the Company.

Although we may attempt to notify you when major changes are made to these Conditions of Sale (including the Buyer Charges & Payment Requirements for August 2019), you should periodically review the most up-to-date version posted at our website ([www.nafa.ca](http://www.nafa.ca)) or contact the Company immediately prior to your attendance at any auction conducted by the Company or at your attendance at such an auction. The Company may, in its sole discretion, modify or revise these Conditions of Sale (including the Buyer Charges & Payment Requirements for August 2019) at any time, and you agree to be bound by such modifications or revisions. These written terms supersede any previous agreement or understanding, whether written or oral, which may have at any time been communicated to you by the Company or any of its officers, directors, staff or representatives.