

DISCLAIMER

This form is provided by way of example only, and is not intended to replace or supplant advice from an attorney, and does not create any relationship between TOBA, its counsel, and any individual or entity using the form. This form is provided without any warranty, express or implied, as to its legal effect or completeness. IN NO EVENT SHALL TOBA OR ITS AGENTS OR OFFICERS BE LIABLE FOR ANY DAMAGES WHATSOEVER (INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF PROFITS, BUSINESS INTERRUPTION, LOSS OF INFORMATION) ARISING OUT OF THE USE OF OR INABILITY TO USE THE MATERIALS. All individuals or entities entering a Bill of Sale agreement proceed at their own risk, and should consult an attorney.

BILL OF SALE AND AGREEMENT

THIS BILL OF SALE AND AGREEMENT ("Agreement") is made and entered into as of the ____ day of _____ by and between _____, [ADDRESS] ("Seller"), and _____, [ADDRESS] ("Buyer");

WITNESSETH:

WHEREAS, the parties hereto have reached an agreement concerning the purchase and sale of that certain thoroughbred [COLT/FILLY/MARE/HORSE] named _____ (YEAR) by [STALLION] out of [DAM] ("[COLT/FILLY/MARE/HORSE]");

NOW, THEREFORE, in consideration of the mutual covenants of the parties hereto, it is hereby agreed as follows:

1. **PURCHASE AND SALE.** Seller agrees to sell, transfer, assign and convey full ownership of the [COLT/FILLY/MARE/HORSE], which sale and purchase Buyer hereby accepts, all under the terms and conditions hereinafter specified.

2. **PURCHASE PRICE.** The purchase price for the [COLT/FILLY/MARE/HORSE] is _____ **U.S. Dollars** (U.S. \$_____.00), payable by _____ by Buyer to Seller in accordance with instructions to be delivered by Seller to Buyer. Buyer shall initiate make payment so that it is

received by Seller not later than close of business in _____ on _____.

3. **VETERINARY AND OTHER EXAMINATIONS.** Buyer covenants with Seller that it has had the [COLT/FILLY/MARE/HORSE] examined by a veterinarian(s) of its choosing and has initiated such other tests as Buyer deems appropriate to determine whether the [COLT/FILLY/MARE/HORSE] is acceptable to Buyer, and that Buyer has had ample time to arrange for such tests. Seller shall have no responsibility whatsoever concerning the sufficiency and/or accuracy of said test results.

4. **RISK OF LOSS, RIGHT TO POSSESSION, AND TITLE.** Prior to delivery, and prior to payment in full of the purchase price in a timely manner, title to and right to possession of the [COLT/FILLY/MARE/HORSE] shall remain with Seller. Buyer agrees that contemporaneously with receipt by Seller of the purchase price, it shall arrange to take possession of the [COLT/FILLY/MARE/HORSE] at the [COLT/FILLY/MARE/HORSE]'s current location in _____. [INSERT TRANSFER INSTRUCTIONS FOR THE COLT/FILLY/MARE/HORSE THAT ARE APPROPRIATE FOR PARTICULAR TRANSACTION, TAKING INTO ACCOUNT TAX AND OTHER CONSIDERATIONS.] At such time as possession of the [COLT/FILLY/MARE/HORSE] is delivered as contemplated above, all risk of loss shall pass from Seller to Buyer.

5. **DISCLAIMER OF WARRANTIES.** As previously specified in this Agreement, Seller has made the [COLT/FILLY/MARE/HORSE] available for such inspections as Buyer deems appropriate and Buyer understands and agrees that SELLER MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND

SPECIFICALLY, WITHOUT LIMITATION, SELLER MAKES NO WARRANTIES THAT THE [COLT/FILLY/MARE/HORSE] IS SUITABLE FOR RACING OR BREEDING PURPOSES, INCLUDING NO WARRANTY THAT THE [COLT/FILLY/MARE/HORSE] IS FERTILE. It is further understood that [SELLER/BUYER] assumes any and all risks related to frustration of import.

6. **JOCKEY CLUB CERTIFICATE.** As soon as practicable after delivery of possession of the [COLT/FILLY/MARE/HORSE] in accordance with the terms of this Agreement, Buyer shall endorse the Jockey Club Certificate for the [COLT/FILLY/MARE/HORSE] as Buyer may instruct and shall deliver said Certificate as Buyer may instruct.

7. **TITLE WARRANTY.** Seller warrants the Buyer will receive clear ownership and title to the [COLT/FILLY/MARE/HORSE] free and clear of any and all claims made by or through Seller.

8. **SALES, USE, OR SIMILAR TAX.** The parties understand and agree that this sale is being made _____. The parties therefore understand that sales, use, VAT, or similar tax is due arising out of this transaction. [THIS PROVISION VARIES PER THE TERMS OF EACH TRANSACTION]. However, should any such tax be due and payable arising out of this transaction or future use of the [COLT/FILLY/MARE/HORSE], the same shall be the sole responsibility of Buyer who shall indemnify Seller from all risk in regard thereto including interest, penalties and reasonable attorneys' fees.

9. **COMMISSIONS.** [DISCLOSE ALL COMMISSIONS, AND WHO CONTRACTED AND IS RESPONSIBLE FOR SAME]

10. **TIME IS OF THE ESSENCE.** Time is of the essence in the performance of each and all of the conditions set forth in this Agreement.

11. **FACSIMILE.** The parties hereto agree that a facsimile of a counterpart of this signed Agreement constitutes an original counterpart and shall be a valid and binding document for all legal and other purposes.

12. **COUNTERPARTS.** This Agreement may be executed in multiple counterparts by the parties hereto. All of such counterparts shall be construed as if all signatures were appended to one document.

13. **MERGER.** This Agreement contains the entire agreement of the parties and any prior or concurrent written or oral understandings are deemed merged into this Agreement.

14. **BINDING EFFECT.** This Agreement shall be binding upon the parties hereto, their heirs, personal representatives, successors and assigns.

15. **GOVERNING LAW.** The terms of this Agreement and disputes developing hereunder shall be enforced and construed in accordance with the laws of the Commonwealth of Kentucky, to which jurisdiction the parties exclusively submit waiving any rights to dispute resolution in any other jurisdiction.

IN WITNESS WHEREOF, the parties hereto have set their hands as of the day and year first above written.

SELLER:

BY: _____

BUYER:

BY: _____

DISCLAIMER

This form is provided by way of example only, and is not intended to replace or supplant advice from an attorney, and does not create any relationship between TOBA, its counsel, and any individual or entity using the form. This form is provided without any warranty, express or implied, as to its legal effect or completeness. IN NO EVENT SHALL TOBA OR ITS AGENTS OR OFFICERS BE LIABLE FOR ANY DAMAGES WHATSOEVER (INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF PROFITS, BUSINESS INTERRUPTION, LOSS OF INFORMATION) ARISING OUT OF THE USE OF OR INABILITY TO USE THE MATERIALS. All individuals or entities entering a Bill of Sale agreement proceed at their own risk, and should consult an attorney.

LEX 990175/880175/3478957.1