LIVESTOCK MART AUCTIONS LIMITED

"A" CONDITIONS OF SALE

The conditions of sale set out below shall be binding upon both vendor and purchaser in all transactions entered-into at this place whether by auction, private contract or otherwise. They shall be so binding notwithstanding that they may not be read aloud at any stage and whether any announcement is made concerning them at any time during which business is being transacted.

1. In these Conditions of Sale unless the context otherwise requires:
"Auctioneer" means the company, firm, or person whose license to sell by auction is held by the person conducting this sale as auctioneer, unless the context shows that it is intended to mean only the person conducting this sale as auctioneer.
"Stock" means and includes live and dead stock and chattels and all terms relating to livestock shall apply mutatis mutandis dead stock and chattels.
"Purchase Price" means either:
(a) Where the auctioneer has announced the terms of the sale to be inclusive of goods and services tax in respect of the relevant lot or group of lots, the price which was bid by the successful bidder.
(b)Where the auctioneer has announced the terms of sale to be exclusive of goods and services tax in respect of the relevant lot or group of lots, or where the auctioneer has made no such announcement, the price which is bid by the successful bidder plus the amount of goods and services tax thereon at the applicable rate.
Words importing the singular shall include the plural and vice versa and the masculine includes the feminine.

2. The highest bidder shall be the purchaser, and should any dispute arise, the stock shall be put up again and resold or otherwise settled at the auctioneer's discretion and his decision shall be binding.

3. The auctioneer expressly reserves the right to refuse to accept any bid. No person shall advance in bidding less than an amount from time to time nominated or directed by the auctioneer.

4. There shall be no fictitious bidding at any auction sale, the vendor reserving the right to one bid only. Such bid if given shall be the upset price.

5. The customary option of the last bidder for the refusal at the upset price of a passed-in lot must be exercised before the next pen is offered.

6. Every person bidding shall be deemed to authorise the auctioneer or the clerk of the auctioneer to sign the Sale Book or Memorandum of Agreement on his behalf as purchaser, and the signing by the clerk or the auctioneer shall be as binding upon the vendor and purchaser as the signing by the auctioneer. Provided also that every person bidding shall be deemed to be bidding as a principal and the person to whom stock is knocked down shall be and remain responsible for payment of the purchase price notwithstanding any subsequent disclosure of agency or any acceptance or acknowledgement of that agency by the auctioneer.

7. No guarantee, warranty or condition shall be given with any stock sold under these conditions as to sex, age, condition, description, title or otherwise howsoever, nor shall any guarantee, warranty or condition be implied from any affirmation or statement made at the time of the sale or from any of the circumstances of the sale.
But in all cases where a guarantee, warranty or condition is intended, the same shall attach and be enforceable only if reduced to writing before delivery of the stock and signed by the vendor or by the auctioneer acting as agent for the vendor, and the absence of such writing shall be conclusive evidence in case of dispute that no guarantee, warranty, or condition was given or intended.

8. If any error or misdescription is made as to title, age, number, sex, condition, or in any other particulars of any stock offered for sale, the same shall not annul the sale, but such compensation shall be allowed to the purchaser by the vendor as the auctioneer, acting as arbitrator for both parties, shall in the discretion of the auctioneer determine. The auctioneer is to be considered merely the agent between sellers and purchasers and in all disputes arising from any defect of title, wrong description, warranty or otherwise, the purchaser and vendor must adjust the matter between themselves should they be unwilling to accept the arbitration of the auctioneer, and no lot is to be returned to the auctioneer.

9. The name, description, and address of the vendor, as given by the vendor, will in all cases be furnished to a bidder or purchaser if required, and in case of any dispute the remedy of the purchaser shall be against the vendor only, and in no case or under any circumstances against the auctioneer, who is to be regarded to all intents and purposes as agent for a disclosed principal.

10. Terms are net cash on the fall of the hammer unless the auctioneer shall prior to the putting up of any lot otherwise specify. The property in the stock purchased shall not pass to the purchaser until payment of the purchase price (including interest under clause 12) is made in full.
Each lot in all cases shall, immediately on the fall of the hammer, be at the risk of the purchaser, who must remove the same within the time specified by the auctioneer. Prior to the fall of the hammer the stock will be at the sole risk of the Vendor and the Auctioneer shall not be liable or responsible for any loss of or damage to, or the passing of disease or other condition to or from, any stock.
In the event of either vendor or purchaser or both being absent at the time of delivery, the auctioneer or any authorised employee of the auctioneer shall be deemed to have been authorised to tally stock sold, and his figures are to be accepted as final.
Should stock be removed by the purchaser or his agent without authority, the purchaser shall be liable for the numbers as entered in the auctioneer's book.
No purchaser shall be entitled to withhold payment for pedigree stock pending execution and delivery by the vendor of transfer of the same registrable in the Stud Book and the remedy of the purchaser on failure to receive such registrable transfer shall lie against the vendor alone and not the auctioneer.
The vendor and the auctioneer agree that all stock which is sold pursuant to paragraph (b) of the definition of "purchase price" shall be subject to goods and services tax pursuant to the provisions of section 60(5) of the Goods and Services Tax Act 1985, irrespective of whether goods and services tax would otherwise be payable in respect of the sale of the stock.

11. (a) EXCEPT as provided in paragraph 11(b) hereof, no stock shall be delivered to anyone except for cash.
(b) WHERE a purchaser satisfies the auctioneer that he has made some suitable arrangement for payment of the purchase price or any part thereof either with the auctioneer who in respect of the making of such an arrangement acts not in his capacity as agent of the vendor, but as the purchaser's Stock & Station Agent, or with another Stock & Station Agent, the auctioneer may deliver any stock to the purchaser without payment in full for such stock and the purchaser shall be deemed to have requested and authorised the auctioneer for, or on account of the purchaser, to pay the purchase money in full to the vendor or credit the vendor therewith, and to debit the purchaser's account with the auctioneer or the purchaser's Stock & Station Agent as the case may be with the purchase price or such part thereof as shall not have been paid by the purchaser, but it shall not be obligatory on the auctioneer to do so, and if the auctioneer does so, the auctioneer may, if the auctioneer, thinks fit, deduct the auctioneer's selling commission and charges when paying the purchase price to the vendor.

12. Subject to any special arrangements that may be made in respect of any lot between the vendor and the purchaser the auctioneer (in addition to all other rights and remedies of the auctioneer express or implied, and notwithstanding the Sale Book or Memorandum of Agreement may have been signed by the auctioneer or the clerk of the auctioneer, on behalf of or as agent for the purchaser) shall be entitled to recover from the purchaser as a debt due on demand due by the purchaser to the auctioneer the full amount of the unpaid purchase price together with interest calculated from the date of sale plus goods and services tax (if any thereon) until payment in full. Such interest shall be considered as accruing from day-to-day at such rate for the time being charged by the auctioneer on overdue accounts and any such interest money remaining unpaid on the dates observed by the auctioneer for the capitalisation of interest shall thenceforth itself carry interest in like manner as the unpaid purchase price and shall thenceforth be deemed part of the unpaid purchase price. The current interest rate and the dates for capitalisation of interest (if any) shall be advised to the purchaser on request.
The rights and remedies of the auctioneer under these conditions shall not be affected by reason of the selling commission and charges of the auctioneer having been deducting by the auctioneer in any payment made by the auctioneer to the vendor, and as between the purchaser and the auctioneer, the purchaser waives all rights of set off, if any, the purchaser as between the purchaser and the vendor may have against the vendor.

13. Should the purchaser fail to complete his purchase in any way, it shall be lawful for the vendor or the auctioneer on the vendor's behalf with notice to cancel the sale, and to enter on the property of the purchaser and to retake possession of the stock brought by the purchaser, or without any notice whatever to the purchaser to resell the stock bought by the purchaser, either privately or by auction at the purchaser's risk and expense, and any loss (including any goods and service tax imposed in respect of the sale and resale) on such resale shall be recoverable by the vendor or by the auctioneer from the purchaser as a debt due upon demand together with interest calculated from the date of sale until payment in full at such rate for the time being charged by the auctioneer on overdue accounts as at the date of sale such rate of interest to be advised to the purchaser on request. The said purchaser shall not be entitled to any surplus on such resale as aforesaid.

14. The auctioneer shall be under no liability for the loss, if any, incurred by the vendor by reason of the failure on the part of the purchaser to complete his purchase.

15. All expenses for feed, drover's fees, trucking, railage and other expenses incurred by the auctioneer on behalf of the purchaser or vendor for the care, maintenance and transit of stock purchased or sold shall be at the expense in all things of the purchaser or vendor (as the case may be) and may be recovered by the auctioneer from the purchaser or vendor (as the case may be) as a debt due upon demand together with interest calculated from the respective dates on which such expenses were incurred until Payment in full at such rate for the time being charged by the auctioneer on overdue accounts as at the date or respective dates on which such expenses were incurred, such rate of interest to be advised to the purchaser on request. The purchaser or vendor shall also be liable for any goods and services tax payable in respect of payments due under this clause.

16. The purchaser agrees with the auctioneer that any drover or other person to whom delivery of stock may be given, nominated, or appointed by the purchaser, or by the auctioneer purporting to act on behalf of the purchaser, shall for all purposes be deemed to be the servant of the purchaser, and the auctioneer shall not be in any way liable or responsible for any act or omission of such drover or any other person. The auctioneer will not be responsible for any claims by any drover for compensation for accident.

17. Any stock not sold shall be at the risk of the vendor, and the auctioneer shall not be responsible to the vendor for any loss to the vendor, in respect of any stock not sold. The vendor agrees with the auctioneer that any drover or other person to whom return of stock to the vendor may be given, nominated or appointed by the vendor or by the auctioneer purporting to act on behalf of the vendor in the event of such stock not being sold, shall for all purposes be deemed to be the servant of the vendor and the auctioneer shall not be in any way liable or responsible for any act or omission of such drover or other person and the auctioneer will not be responsible for any claims by such drover or other person for compensation for accident arising out of the return of such stock. The provisions of Clause **19** hereof shall apply in connection with stock not sold substituting the word "vendor" for the word "purchaser" throughout Clause 19.

18. Any stock not sold at the auction may be sold privately before removal from the saleyards, and these conditions shall apply to such sales. Notwithstanding that the auction sale may have been concluded, the auctioneer shall continue to be agent for the vendor in such sales, and the signing of the purchaser's name in the Auction Sale Book on behalf of the purchaser by the auctioneer or the clerk of the auctioneer shall constitute as binding an agreement for sale and purchase as between vendor and purchaser as if such stock were sold at auction, and the auctioneer shall be entitled to be paid the selling commission and charges of the auctioneer in all respects as if such stock had been actually sold at the auction, pursuant to these conditions.

19. The purchaser agrees that notwithstanding any instructions or directions given by him to the auctioneer or any servant of the auctioneer as to the method or time of trucking, holding, feeding, watering or otherwise tending any stock for any period, or as to the route to be followed by any driven or trucked stock, or the numbers of drovers to be employed, the stock shall so remain at the purchaser's risk, and no liability whatever shall attach to the auctioneer or any servant of the auctioneer for any loss or damage occasioned to such stock. The auctioneer or any responsible servant of the auctioneer shall be at liberty at his discretion if in his opinion it is desirable or imperative in the interests of the purchaser or for the benefit of any stock so to do to disregard, vary or modify entirely or partly the directions or instructions of the purchaser or any of them, and adopt other procedure altogether or in part, in any such event the decision of the auctioneer or any responsible servant of the auctioneer shall be final and binding, and neither the auctioneer nor any of his servants shall be liable to the purchaser for any damage or loss incurred by the purchaser consequent on the carrying out, disregard, variation or modification of his instructions or directions.

20. The auctioneer shall issue any tax invoice, credit note, or debit note as required under the Goods and Services Tax Act, and the vendor shall not issue any such tax invoice, credit note, or debit note. As a precondition to the auctioneer selling the stock, the vendor shall provide the auctioneer with the goods and services tax registration number of the vendor together with such other information relating to the goods and services tax registration of the vendor as the auctioneer may require.

21. Every person attending the sale or entering the sale yards shall do so at his own risk, and the auctioneer shall not be in any way liable or responsible for any accident whatsoever to any such person.