



# Pacific Sporthorse Selection

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## CONSIGNMENT CONTRACT

THIS CONSIGNMENT CONTRACT ("Agreement") is made this \_\_\_\_ day of \_\_\_\_\_, 2016, by and between:

Sporthorse Online, LLC and \_\_\_\_\_  
6954 Lewis Road ("Consignor")  
Vacaville, CA 95687

### WITNESSETH:

WHEREAS, Sporthorse Online, LLC ("SHO") will be holding its 2016 Pacific Sporthorse Selection Auction on October 15, 2016 (the "Auction" or the "Sale"), at Christiane Noelting Dressage Center, Inc., located at 6954 Lewis Road, Vacaville, CA 95687 ("CNDC"); and SHO has employed Phillip L. Pierceall of Swing City Auction Company, LLC, Texas Auctioneers License #16169 ("Auctioneer"), to conduct auction services for the Auction; and

WHEREAS, Consignor owns the Horse, as more fully described in PARAGRAPH 2 herein; and Consignor desires to consign the Horse to SHO to be sold at the Auction.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, SHO and Consignor hereby covenant, represent and agree as follows:

### 1. IDENTITY OF THE OWNER AND AGENT

Registered Owner(s):	Agent's Name:
Address:	Address:
City/State/Zip:	City/State/Zip:
Phone:	Phone:
Email:	Email:

### 2. DESCRIPTION OF THE HORSE

Registered Name:		
Age:	Color:	Sex:
Breed:	Height:	USEF Number:
Registration Number and Organization:		

### 3. DEADLINES

- a. The Agreement, Entry Fee, and Board and Training Fee must be submitted to SHO by September 3, 2016.
- b. The Horse's Health Records must be provided to SHO on or before September 3, 2016.
- c. Official Arrival Date - This Agreement must be signed prior to the Horse's arrival at the Auction training facility on September 3, 2016. Hunter/Jumper horses will be handled on an individual basis by Madchen Giesler 945 Dressler Ln. Gardnerville, NV 89460 ("SHO partner property"). Dressage Horses and Hunter/Jumper Horses may be trained and/or stabled at either CNDC or the SHO partner property prior to the Auction.

### 4. ENTRY FEES, BOARDING FEES AND TERMS OF PAYMENT

- a. Consignor agrees to pay SHO a non-refundable entry fee ("Entry Fee") for each Horse or Foal, specified in PARAGRAPH 18. For payment of the Entry Fee, SHO agrees to consider entering the Horse ("Horse" as used in this agreement may represent either a horse or foal unless specifically stated otherwise) in the Auction, to market the Horse for sale at the Auction, which shall include the listing of the Horse on the SHO website and in its sale catalog, and in marketing the Auction through a wide variety of media. Notwithstanding the foregoing, in the event that SHO chooses not to enter the Horse in the



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Auction, pursuant to PARAGRAPHS 4 & 5 herein, the Entry Fee is non-refundable.

b. Consignor agrees to pay a Board and Training Fee ("Board and Training Fee") specified in PARARAPH 18 to SHO. This Board and Training Fee is for the Horse to be boarded at CNDC and/or SHO partner property prior to and during the Auction and shall include the cost for the board (stall, shavings, feed, cleaning), grooming, advertising, photography and video for marketing, training, presentation for clients, and presentation in the Auction.

c. In the event that SHO agrees that the Horse can arrive at CNDC and/or the SHO partner property prior to the Official Arrival Date specified above, then Consignor shall pay per diem for the Board and Training Fee, including stall fees, for each twenty-four (24) hour period prior to the Official Arrival Date plus any Additional Costs incurred. "Additional Costs" include but are not limited to, additional shavings, farrier or veterinarian services, medication and grooming. The amount of Additional Costs and/or stall fees to be paid is specified in PARAGRAPH 18.

d. No Horse may be removed from the grounds without a Stable Release form provided by SHO. If a Horse is removed from the Auction after acceptance for sale, or if a Horse is sold prior to the Auction and not brought to the Auction for sale, a Withdrawal Fee ("Withdrawal Fee"), specified in PARAGRAPH 18 will apply. A Withdrawal Fee will not be charged if: (1) Horse is sold subject to Pre-Auction Sale pursuant to PARAGRAPH 8; or (2) Consignor presents to SHO, and SHO accepts in its sole and absolute discretion, a veterinary certificate prior to the time of withdrawal that sets forth a medical and legitimate reason that the Horse cannot be sold at Auction. Pre-approved substitutions are allowed in the event of injury to or death of the Horse. The Substitution Fee is specified in PARAGRAPH 18.

e. In the event the Horse is not sold at the Auction, Consignor agrees to have the Horse removed from CNDC within twenty-four (24) hours of the conclusion of the Auction, or agrees to be subject to standard CNDC boarding rates ("Boarding Rates") and Additional Costs incurred during that period.

f. Consignor agrees that all amounts owed to SHO, if not paid within fifteen (15) days of the Auction, shall bear a finance charge of one and one-half percent (1½ %) per month, or the maximum legal rate, whichever is higher, commencing from the date of the Auction.

### 5. CONSIGNOR'S REPRESENTATIONS, WARRANTIES, AND OBLIGATIONS

a. Consignor agrees to complete the Sale Catalog Information per the form available online at [www.sporthorse-selection.com](http://www.sporthorse-selection.com) within five (5) days.

b. Horse's Health Records – Consignor agrees to provide to SHO the following prior to or upon Horse delivery:

- i. Proof of current vaccination for each Horse, pre-veterinary exam, and X-rays;
- ii. A veterinarian inter-state health shipping paper where applicable;

iii. Original registration papers for each Horse (properly prepared for transfer) as well as status of mares or stallions in the stud book, scores and breeding information, if applicable;

iv. A USEF Recording Certificate for each Horse, if applicable (properly prepared for transfer);

v. A completed Written Disclosure Statement (Schedule D), regarding any previous surgical procedures, cribbing, weaving, wind, nerving, bleeders, or drugs administered prior to delivery or any conditions which are known to Consignor that would adversely affect the good faith of the Horse as an entry into the Auction.

c. Consignor covenants, represents and warrants to SHO and the successful bidder at the Auction, that Consignor is the sole owner of the Horse and that the Horse is free and clear of any and all liens and encumbrances of any nature whatsoever and that Consignor has the full right, power, and authority to sell the Horse and enter into this Agreement. Consignor also represents and warrants that all information furnished to SHO regarding the Horse is complete, accurate and has no omissions. Consignor agrees immediately to notify SHO of any errors and/or omissions in any of the foregoing, or in any announcement made with respect to the Horse. Consignor further covenants, represents and warrants that any signature or information given on any document pertaining to this Sale is proper and legal. These representations and warranties shall survive the Auction and also inure to the benefit of any Buyer.

d. Consignor will, in all respects, cooperate with and assist SHO in the discharge of their duties and shall refrain from any acts that will interfere with the Auction and with any prospective purchasers. Consignor understands that failure to cooperate with SHO could result in the Horse being dismissed from the Auction without refund of any fees charged, including but not limited to, the Board and Training Fee, Additional Costs, Boarding Rates, Daily Rate, Substitution Fee, and Entry and Withdrawal Fees.

e. Consignor agrees to the conditions set forth herein and in the Terms and Conditions of Sale attached and made part of this Agreement. Consignor agrees to abide by the rules of CNDC, the SHO partner property, the owner and/or operator of the Sale facilities, premises, or grounds and the rules and customs or practices of SHO for sales conducted by SHO.

f. If Consignor is executing this Agreement as Agent for the Owner of the Horse(s) listed herein, both Agent and Owner shall be jointly and severally liable to SHO for all such obligations arising hereunder. Owner shall be deemed to have full knowledge of any information conveyed to SHO by Consignor.

### 6. HORSE'S FITNESS FOR AUCTION – PRE-VETTING RECOMMENDATIONS AND REFUSAL OF ENTRY

Consignor agrees to submit for each Horse a written veterinary report of basic examination and a set of digital X-rays as specified by SHO. The X-rays will be placed in a repository controlled by SHO and made accessible to Buyers. SHO reserves the right to return any Horse arriving at CNDC and/or SHO



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partner property which it deems unsuitable, in SHO's sole and absolute discretion, for sale at the Auction for reasons including but not limited to: poor body condition, poor grooming, unkempt feet, soundness faults, or poor disposition. All returns made to Consignor will be made at Consignor's expense, prior to the Auction. Any returned Horse will be charged a Daily Rate specified in PARAGRAPH 18, over and above the daily Boarding Rates while in residence at CNDC and/or SHO partner property, plus any Additional Costs.

## 7. OBLIGATIONS AND RIGHTS OF SALE PRESENTER

SHO shall be responsible for presenting and promoting the Auction, providing a venue, and selling the right to consign to interested individuals. SHO shall contract with the Auctioneer, who is duly licensed to operate in the state of Texas and bonded in California, and will, in accordance and agreement with the Auctioneer, have final decision in all matters regarding the structure of and procedures of the Auction. SHO does not claim to be a licensed Auctioneer service and will provide only management and presentation services by which Consignor may sell and Buyer may purchase horses.

## 8. PRE-AUCTION SALE OF HORSE

a. Consignor shall have the right to sell the Horse at a Pre-Auction Sale price. This Pre-Auction Sale price shall be made public, and Buyer may agree to purchase the Horse for that amount before the Auction takes place. If a Pre-Auction Sale price has been established, Consignor shall enter it here:

**Pre-Auction Sale price:** \$ \_\_\_\_\_

**Signature of Consignor:** \_\_\_\_\_

b. Consignor agrees that the Horse is to be sold at absolute auction unless a Pre-Auction Sale has occurred or a minimum reserve has been set by the Consignor on the Reserve Bid Form (Schedule C).

## 9. COMMISSIONS AND POST-AUCTION PROCEDURES

If the Horse is sold either by Pre-Auction Sale or at the Auction, Consignor agrees that SHO shall be entitled to a commission of eight percent (8%) of the hammer price or the Pre-Auction Sale price ("Commission"). The Commission and any unpaid Board and Training Fee, Additional Costs, and Boarding Rates shall be netted from the Total Purchase Price specified on the Acknowledgement of Purchase and Security Agreement, and the net funds shall be paid to the Consignor ("Consignor's Proceeds") within fifteen (15) days of Sale so long as Consignor has fully performed all of Consignor's obligations under this Agreement and Buyer is not in default. Consignor is aware that the successful Buyer of the Horse shall also pay an eight percent (8%) Buyer's Premium to SHO, which shall be eight percent (8%) above the Pre-Auction Sale price or the hammer price. Prior to the distribution of Consignor's Proceeds, Consignor must have provided to SHO all required documentation and registration papers as determined by SHO. Consignor agrees to indemnify SHO and hold harmless and

blameless SHO on collection of any sales tax for any Horse withdrawn from sale or any Horse that does not make reserve and is sold after the Auction.

## 10. RISK OF LOSS

While the Horse is boarded at CNDC and/or SHO partner property under the supervision of SHO, SHO and CNDC shall not be liable for any sickness, disease, theft, death or injury suffered by the Horse or any other cause of action arising from or concerning the boarding of the Horse. All risks are assumed by the Consignor. The Consignor agrees to hold SHO, CNDC, SHO partner property, and each of their respective employees and agents, collectively the "SHO Released", harmless and blameless from any loss or injury to said Horse. All costs, no matter how catastrophic, connected with the Horse are borne solely by the Consignor.

## 11. CONSIGNOR'S RELEASE AND INDEMNITY

While the Horse is boarded at CNDC and/or SHO partner property and under the supervision of SHO, Consignor agrees to hold the SHO Released harmless and blameless from any claim caused by said Horse. Consignor hereby releases SHO, CNDC, the Auctioneer, and each of their respective employees and agents from any and all responsibility, liability, obligation, claim, lawsuit, or legal proceedings that may arise out of this Agreement and/or the sale and care of the Horse, and Consignor further agrees to indemnify and hold blameless the SHO released for any claim of harm or injury caused by the Horse or arising out of this Agreement. Consignor agrees to execute and deliver the Release and Indemnity Agreement (Schedule B).

## 12. EMERGENCY CARE

If medical treatment is needed for the Horse, SHO will attempt to contact Consignor but, in the event that the Consignor is not reached, Consignor grants authority to SHO or CNDC to secure emergency veterinary and/or blacksmith care and to arrange billing to the Consignor. Consignor is responsible to pay all costs relating to this care.

## 13. TERMINATION

SHO may terminate this Agreement, either pursuant to PARAGRAPHS 4 & 5 herein or if Consignor breaches any material term and/or covenant of this Agreement, upon written notice to the Consignor.

## 14. WAIVER OF AGISTER LIEN

SHO has the right of lien as set forth in the laws of the state of California (Cal. Civ. Code § 3080) for the amount due for Board and Training Fees, Boarding Rates, and Additional Costs, training or any additional services and shall have the right, without process of law, to retain said Horse until the indebtedness is satisfactorily paid in full in cash, certified bank check or wire transferred funds. Upon receipt of the funds, the Horse shall be released from the lien. The Consignor hereby grants a first priority lien on the Horse to SHO for all charges resulting from



# Pacific Sporthorse Selection

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boarding, training, or rendering of any other services to the Horse. If all such charges are not paid within forty-five (45) days of the Auction, the Horse may be considered as abandoned, and Consignor agrees, regardless of governing statutes, that SHO may, upon fifteen (15) days written notice to Consignor, at the address set forth above, sell the Horse at its discretion at public or private sale to satisfy indebtedness. Consignor hereby expressly waives all provisions of California Civil Code §3080 et al. (which provides for a court ordered sale of the Horse). In the event of such, any monies received in excess of the amount due to SHO shall be delivered to the Consignor within five (5) days by first class United States mail service at the address recorded above. The Consignor shall pay any and all expenses, including attorney's fees and court fees, incurred by SHO in connection with the exercise of any right or remedy under this Agreement and the preparation and delivery of any notices.

**Signature of Consignor:** \_\_\_\_\_

## 15. NOTICES

Any notice, consent, request or other communication made or given in connection with this Agreement shall be in writing and shall be deemed to have been duly given when delivered or mailed registered or certified mail, return receipt requested, or by confirmed facsimile transmission or by hand delivery, to the parties at their respective addresses, as set forth above, or at such other address as each may specify by notice to the others in writing.

## 16. MISCELLANEOUS

This Agreement (including the documents and instruments referred to herein) constitutes the entire agreement between the parties and supersedes all prior or concurrent agreements, understandings, warranties, representations and negotiations, both written and/or oral, between such parties. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, representatives, successors and assigns. This Agreement shall not be assignable by the Consignor, without the express prior written consent of SHO. Any legal action brought regarding a claim must be brought in the Superior Court of Solano County, California and the substantive laws of the State of California shall apply. The failure of a Party to insist on strict adherence to any term of this Agreement on any occasion shall not be considered a waiver thereof or deprive that Party of the right thereafter to insist upon strict adherence to that term or any other term of this Agreement. If any term or provision of this Agreement is declared illegal or unenforceable by any court of competent

jurisdiction and cannot be modified to be enforceable, such term or provision shall immediately become null and void, leaving the remainder of this Agreement in full force and effect. On any breach of this Agreement, the prevailing party shall have the right to recover all reasonable attorney's fees and court costs. All Schedules (B, C, & D) are attached and incorporated into this Agreement. This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts will together constitute but one Agreement.

## 17. MEDIATION

In the event a dispute shall arise between the parties to this Agreement, the parties agree to participate in confidential mediation with JAMS of Sacramento, located at 2520 Venture Oaks Way #400, Sacramento, CA 95833 before the filing of any lawsuit. The parties agree to share equally in the costs of the mediation. If the matter is not resolved through confidential mediation, then the right to litigate shall be preserved.

## 18. RATES AND FEES

Entry Fee for Horse	
Entry Fee for Foal	
Withdrawal Fee	
Substitute Fee	
Board and Training Fee	
Additional Costs	
Daily Rate	
<b>Total Fees</b>	

**By signing this Agreement, Consignor confirms that he or she has read this Agreement and the Terms and Conditions of Sale and fully understands said documents and is herein agreeing to be bound by them.**

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement as of the day and year first above written.

### Consignor

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

\_\_\_\_ Owner      \_\_\_\_ Authorized Agent

### Sporthorse Online, LLC

By: \_\_\_\_\_

Print Name: \_\_\_\_\_