

2016 BOOKING AND BREEDING CONTRACT FOR POPEYE K

THIS CONTRACT is entered into this _____ day of _____ (month), 201____, by and between the herein identified "Mare Owner" and Spencer Ranch, LLC of Keswick, VA (hereinafter "SPENCER RANCH")

- | | |
|---|---|
| 1. Mare Owner information:
Name: _____
Address _____
Address: _____
City, State, Zip: _____
Phone: _____
Email: _____ | 2. Mare Owner is the owner (or Lessee of record) of the mare (hereinafter "Mare") known as:
Name: _____
Breed: _____;
Sire: _____;
Dam: _____;
Color: _____; Age: _____;
Registration No.: _____. |
|---|---|

3. Is this an embryo transfer? ___No ___ Yes (If yes, please pay special attention to the Terms and Conditions Governing Embryo Transfer)

4. Mare Owner requests (please indicate selection) _____ Frozen Semen or _____ Fresh Semen*
"Fresh semen will be collected and available only from March – June and additional charges will apply; if Fresh semen is unavailable, frozen semen will be shipped

5. Mare Owner specifically understands and agrees to the following (initial each statement):
- _____ By signing below I represent that I have read and agree to the "Popeye K 2015 Booking and Breeding Terms and Conditions," and that those Terms and Conditions are incorporated herein by reference.
 - _____ The contract fee is \$2500 USD including the \$750 non refundable booking fee. For the \$2500 fee I am guaranteed a foal or a partial refund.
 - _____ Only the mare listed above will be inseminated.
 - _____ If I decide to use a substitute mare I must get permission from Spencer Ranch and provide documentation that the first mare was unable to produce a pregnancy.
 - _____ In the case I decide to do an embryo transfer, I understand that the fee only covers the first embryo. Subsequent embryo's are subject to an additional stud fee of \$1500 per embryo.
 - _____ I understand that all unused semen must be destroyed, and that transferring unused semen to anyone else is not allowed by this contract.
 - _____ I also understand that I am responsible for destroying semen at the end of season, and I am responsible for any subsequent storage and shipping fees.
 - _____ I will be responsible for accurately reporting success in insemination at the end of season in a timely manner.

4. Contact Information for Inseminating Veterinarian: Name: _____
Address: _____
Address: _____
City, State, Zip: _____
Phone: _____
Email: _____

Witness our hands and seals on the date and year first set out above.

SPENCER RANCH, LLC

MARE OWNER:

By: _____
RACHEL SPENCER

Signature

Please sign and initial where noted. Please fill out all spaces. Return only page one of this contract. Please keep other pages for your reference. This page will be returned to you after invoicing and signing.

POPEYE K 2016 BOOKING AND BREEDING TERMS AND CONDITIONS

For good and valuable consideration, including the Stud Fee and the mutual covenants set forth herein, the Contract entered into by and between Mare Owner and Spencer Ranch, LLC of Keswick, VA (hereinafter "SPENCER RANCH"), for the purchase and sale of the breeding right described herein, is governed by the following terms and conditions:

1. Term. The term of this Contract shall be from the date entered into up to, but excluding, the first day of the breeding season of the following calendar year which shall be 2017 for the purposes of this Contract.
2. Scope. This Contract covers the purchase and sale of a single (1) breeding right to the stallion known as POPEYE K from SPENCER RANCH to Mare Owner. Mare Owner hereby purchases said breeding right subject to the terms and conditions of this Contract. For the purposes of this Contract, a "breeding right" entitles Mare Owner to use Semen purchased to produce a single (1) foal. Additional fees for additional breeding rights shall apply (see paragraph 3 of Embryo Transfer Addendum).
3. Stud Fee; Payment Terms. Mare Owner agrees to pay to SPENCER RANCH a fee of \$2500.00 (Two Thousand Five Hundred Dollars) in U.S. funds (plus applicable sales tax, if any) in consideration of a single (1) breeding right. Spencer Ranch shall provide up to ten doses of Semen (8 straws shall constitute a single dose of Semen) per breeding season. A non-refundable booking fee of \$750.00 (Seven Hundred Fifty Dollars) is due and payable at the execution of this Contract. The balance of the fee (\$1850.00) is due and payable not less than thirty (30) days prior to Mare Owner's first Semen shipment request.
 - a. Each shipment of Semen shall consist of two (2) doses. If the Mare does not become pregnant after the first shipment, subsequent shipments shall be made upon veterinary certification of unsuccessful impregnation. Intentional flushing of embryo does not constitute an "unsuccessful impregnation" for purposes of this Contract.
 - b. **Any and all unused straws of Semen remain the property of Spencer Ranch. Mare Owner agrees to return to either Select Breeders or Hyperion Stud (as appropriate based on originating shipper) any and all unused straws of Semen remaining at the end of the breeding season. Mode of shipment within discretion of Mare Owner and not required to preserve integrity of Semen.**
4. Other Charges. In addition to the charges set forth above,
 - a. **FOR EACH SHIPMENT OF FROZEN SEMEN** Mare Owner agrees to a container deposit payable to "Select Breeders," and agrees to make all necessary shipping arrangements with Select Breeders, directly
 - b. **FOR EACH SHIPMENT OF FRESH SEMEN** Mare Owner agrees to (i) a container deposit and (ii) a collection and shipping fee of \$300 payable to "Hyperion Stud" and (iii) make all necessary shipping arrangements with Hyperion Stud, directly.
 - c. Mare Owner agrees to pay any other shipping fees, custom fees, and sales tax, as may be applicable to this transaction.
5. Mare Owner's Representations and Warranties. Mare Owner represents and warrants to SPENCER RANCH as follows:
 - a. Mare Owner is the owner (or Lessee of record) of the mare (hereinafter "Mare") identified in the Contract.
 - a. Mare is, to Mare Owner's knowledge, fit for breeding.
 - b. Only the Mare identified will be inseminated with Semen.
 - c. Mare Owner will request shipment of Semen during the term of this Contract.
 - d. Mare Owner assumes all responsibility for the condition of the Mare and shall bear all risk of loss or damage to the Mare, whether by death, disease, injury, infection or otherwise, and agrees to hold SPENCER RANCH, its members, managers, employees, agents,

representatives and assigns harmless for any and all damages associated therewith.

- e. Mare Owner will be solely responsible for seeking registration of the resulting foal in the appropriate breed registry/registries and will pay all associated fees or expenses.
- f. Mare Owner agrees to return to Hyperion Stud any and all unused straws of Semen remaining after each breeding at the end of the breeding season. Mode of shipment within discretion of Mare Owner and not required to preserve integrity of Semen.
- g. Mare Owner will pay SPENCER RANCH's damages, costs and expenses, including reasonable attorney's fees, if Mare Owner breaches any material term of this Contract.

6. SPENCER RANCH's Warranties and Disclaimers. SPENCER RANCH makes the following warranties and disclaimers, and Mare Owner acknowledges and agrees to each one:

- a. SPENCER RANCH has full authority and power to sell the breeding right to Mare Owner. The breeding right sold hereunder is free from all liens and encumbrances.
- b. Except for the Live Foal Guarantee, SPENCER RANCH MAKES **NO WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE SEMEN AND SPECIFICALLY DOES NOT WARRANT THE MERCHANTABILITY OR FITNESS FOR ANY PURPOSE OF THE SEMEN PROVIDED HEREUNDER.**
- c. **LIVE FOAL GUARANTEE.** If the Mare is barren, aborts or fails to produce a single live foal that can stand up alone and nurse ("Live Foal"), SPENCER RANCH will allow Mare Owner either (1) a single return breeding privilege of the Mare (or a substitute mare) to Stallion in either the same (2016) or the next (2017) breeding season only, or (2) a refund of \$1850.00 (if taken in 2016) or \$1250.00 (if taken in 2017 or 2018). To exercise either option, Mare Owner must furnish a satisfactory certificate issued by a licensed veterinarian attesting to such fact within thirty days of: the attempted breeding (if barren); the abortion, or; the death of the foal. The Live Foal Guarantee expires fully no later than December 31, 2018.
- d. The Live Foal Guarantee shall apply regardless of whether the Mare Owner selects the Frozen or Fresh Semen option. However, as collection of fresh semen will be limited, Mare Owner understands and agrees frozen semen may be shipped in substitution.
- e. Extinguishment of Live Foal Guarantee: The stud fee set forth hereinabove shall either be retained by or become immediately due and payable to SPENCER RANCH as liquidated damages, and the Live Foal Guarantee above becomes null and void, if Mare Owner does any of the following:
 - (1) Fails to pay any charges due under this Contract;
 - (2) Sells, transfers, assigns or grants a security interest in the breeding evidenced by this Contract;
 - (3) breeds the Mare to another stallion during the term of this Contract without SPENCER RANCH's written consent; and/or
 - (4) inseminates a mare, other than the Mare listed above, with the Semen.
 - (5) AN EMBRYO TRANSFER SHALL EXTINGUISH THE LIVE FOAL GUARANTEE IN ALL CASES unless Mare Owner's intention to do an Embryo Transfer has been designated on page 1 of the Contract and the Additional Terms and Conditions Governing Embryo Transfers (see below) have been fully complied with by Mare Owner, in which case any guarantee afforded by the Additional Terms and Conditions Governing Embryo Transfers shall apply.

7. **Substitute Mare; Refund Policy.** In the event the Mare dies, is certified barren or otherwise unfit for breeding within the term of this Contract, SPENCER RANCH will allow Mare Owner either (a) to present a substitute mare for receipt of Semen with the written consent of SPENCER RANCH which shall not be unreasonably withheld, or (b) a refund of \$1850.00 (if taken in 2016) or \$1250.00 (if taken in 2017 or 2018). No refunds shall be made in the event Mare Owner fails to exercise one of these two options within the parameters agreed to herein. Resort to a substitute mare shall not expand the breeding rights or privileges contracted to herein beyond those to which the Mare would be entitled.

8. Entire Agreement. This Contract contains the entire agreement between the parties with respect to its subject matter. All prior promises or understandings (either oral or written) between Mare Owner and SPENCER RANCH shall be void unless contained in this Contract. Modifications to this Contract will only be valid if in writing and signed by both parties.

9. Jurisdiction; Venue; Attorneys Fees. This Contract shall be binding upon the parties hereto, their heirs, personal representatives, successors and assigns, and shall be construed and governed in accordance with the laws of the Commonwealth of Virginia. Jurisdiction and venue for any action between the parties hereto shall be in a state court of competent jurisdiction in Albemarle County, Virginia. In the event of any dispute between the parties to this Contract, it is expressly agreed that the Mare Owner shall be liable to Spencer Ranch for all expenses and related costs, including attorneys' fees, incurred by Spencer Ranch in connection with resolving any dispute or litigation between the parties.
10. Assignability. This Contract is not assignable by Mare Owner without the written consent of SPENCER RANCH.
11. Severability and Headings. In the event that any portion of this Contract shall be declared unenforceable, such declaration shall not affect the remaining terms of the Contract, which shall survive intact. The headings used herein are for convenience only and are not intended to be substantive terms hereof.

ADDITIONAL TERMS AND CONDITIONS GOVERNING EMBRYO TRANSFERS

For the purpose of embryo transfer, the following terms and conditions apply:

12. Scope. These additional terms and conditions cover the purchase and sale of one or more breeding rights to the stallion known as POPEYE K from SPENCER RANCH to Mare Owner *for the purposes of embryo transfer*. If Mare Owner is not purchasing additional breeding rights, then this Addendum shall govern the Limited Live Foal Guarantee in the case of a purchase of a single breeding right for the purposes of embryo transfer.
13. Mare Owner's Representations and Warranties. Mare Owner represents and warrants to Spencer Ranch that Mare Owner intends to inseminate the Mare with the Semen purchased pursuant to the Contract, and flush one or more resulting embryos with the intention of transferring said embryo(s) to a recipient mare. Mare Owner represents and warrants to Spencer Ranch that Mare Owner intends to produce foals by embryo transfer.
14. Fee: Payment Terms. Mare Owner agrees to pay to SPENCER RANCH a fee of \$1500.00 (One Thousand Five Hundred Dollars) in U.S. funds (plus applicable sales tax, if any) in consideration of each **additional** breeding right that may result from the insemination of the Mare with the Semen purchased from Spencer Ranch. Recipient mares are considered in foal at 21 days, at which time payment is due.
15. **LIMITED LIVE FOAL GUARANTEE.** If, as a result of an embryo transfer performed in 2016, the recipient mare aborts or fails to produce a single live foal that can stand up alone and nurse ("Live Foal"), SPENCER RANCH will allow Mare Owner a refund of \$1250.00 within 30 days of the loss. Notice of loss and veterinary certification of same must be in writing and received by Spencer Ranch within the thirty day time frame.
16. **Extinguishment of Limited Live Foal Guarantee for Embryo Transfer:** The Limited Live Foal Guarantee for Embryo Transfers above becomes null and void, if Mare Owner does any of the following:
 - (a) Fails to pay any charges due under the Contract;
 - (b) Sells, transfers, assigns or grants a security interest in the breeding;
 - (c) breeds the Mare or recipient mare to another stallion during the term of this Contract without SPENCER RANCH's written consent.