

# INFINITY FARM

## CONSIGNMENT AGREEMENT

This contract constitutes the entire agreement between the parties. No other agreements, promises, terms or conditions, whether verbal or implied, are included. The Consignor agrees to consign and sell the listed horse for the designated consignment price, as specified herein.

THIS CONSIGNMENT AGREEMENT DATED:

BETWEEN:

(NAME):

(ADDRESS) (TELEPHONE):

HEREINAFTER REFERRED TO AS THE "CONSIGNOR";  
AND

(NAME): Shannon Roberts

(ADDRESS) (TELEPHONE): 7601 State Highway 70, Marysville, CA 95901

HEREINAFTER REFERRED TO AS THE "CONSIGNEE"

The consignor hereby owns the horse(s) set out in Schedule A hereto (hereinafter referred to as the "Horse(s)"). The consignor, by signing this agreement, attests to the sole ownership of said horse. If other owners exist, they must be noted on this agreement and must also sign agreement. The consignee offers to attempt to sell said horse(s).

### 1. CONSIGNMENT SALE

1.1 Consignee agrees to promote horse(s) for client and show due diligence in selling horse(s) for Consignor. This shall include, but not limited to, at Consignee's sole discretion, placing free internet ads on horse classified websites, taking or making phone calls, responding to emails, showing the horse to perspective clients, being present as Agent for vet checks, and acting as the sale agent.

1.2 Additional advertising may be placed by Consignor at the expense of Consignor only if agreed upon and approved by Consignee. No price shall be listed on any advertisements by Consignor. Consignor agrees and understands that the sale price advertised will be higher than the actual price of the horse to allow for industry standards of negotiation and reduction in price pending any findings on a vet examination, unknown to the consignor at the time this agreement is signed.

1.3 Consignee agrees to assist in obtaining, at consignor's expense, professional quality photography and videography of horse(s) as well as prepare appropriate text for promotion of horse(s).

1.4 Consignor has the sole right to set the MINIMUM sale price, only. Consignor has the sole right to accept or reject any offer made UNDER the minimum sale price. Consignee has sole responsibility to set the price of said horse to ensure appropriate commissions and expenses are included.

1.5 Consignee makes no representations, or guarantees that said horse will sell for the price set by the Consignor, but Consignor agrees that Consignee may sell said horse so long as the minimum sale price set forth herein is obtained and Consignee does not need to seek prior approval for said sale so long as this price is met.

1.6 Consignee may terminate agreement at any time it feels horse(s) is/are not suitable for sale due to temperament or soundness.

1.7 Consignor may terminate agreement at any time pursuant to section 9 of this agreement. (See 9).

1.8 Consignor may refer prospective buyers to Consignee but shall not provide a price for said horse.

1.9 The Consignor understands and agrees that there will be times the Consignor will act in the role of a dual agent.

A dual agent is one who may act on behalf of the seller and buyer in the same transaction. This disclosure has been made to Consignor and Consignor agrees to accept such role by Consignee. It is the obligation of the Consignee to obtain equal written approval from any such buyer for which the Consignee is also the agent.

The Consignor further agrees and understands that when Consignee acts as a role of dual agent the Consignee, at its discretion, will collect a commission/compensation for its time, from both the buyer and seller in the transaction.

## 2. TERMS

2.1 Sale(s) Commission: Consignor has made an offer to sell for \$ . At the sale of the horse, the consignee shall receive, a commission of % . The consignee will pay the consignor the balance of all funds on the sale of said horse at the time of the sale.

2.2 Consignee may bring to the consignor offers to buy for less than the stated offer to sell of \$ . If consignor chose to accept said offer, the consignee shall receive a commission of % . The consignee will pay to the consignor the balance of all funds on the sale of said horse at the time of the sale.

2.3 Consignor agrees that this agreement will be in full force from the date of signing of this Consignment agreement and ending six months from the date the consignor signs this agreement or on the closing date of the sale. It will automatically be renewed for 4 month intervals at the discretion of Consignor.

2.4 If the contract is terminated before the completion of six months at the request of the Consignor and the Consignor secures a sale within one (1) year from anyone that either tried the horse, or was affiliated with the trial, including but not limited to trainers, while it was under contract with <sup>Infinity</sup> Farm, will be responsible to provide with a 10% commission of the full sale price of said horse.

2.5 In the event said horse is stabled with Consignee, the Consignor (will not / or will be) responsible for reasonable farrier services and shall give consent to Consignee to call upon a vet should the need arise for emergent care. All elective care, if needed, will be discussed with Consignor before obtaining same.

2.6 In the event said horse is stabled with Consignee, the Consignor will be responsible for the payment of consignment board at the rate of \$ . Consignor may agree pursuant to this contract to either make said payment at the first of each month or alternatively to have said costs deducted from the minimum sale price noted above. If the Consignor elects to have such charges taken from the minimum sale price and the Consignor terminates the contract before a sale takes place, the Consignor MUST make payment in full of all outstanding charges paid by Consignee as a penalty for early termination before said horse leaves the care of Consignee. In the event the payment is not made, the Consignee has an immediate right to lien said horse and by agreement of the parties, and as a material term to this agreement, Consignee does NOT have to use the process of law to enforce said lien.

I the Consignor agree to make the board payment at the first of each month, or

I the Consignor agree to have all board costs, as stated above, deducted from the sale price or alternatively will be paid at the end of said contract.

## 3. CONSIGNOR RIGHTS AND OBLIGATIONS

3.1 Warranty of ownership: Consignor warrants that Consignor owns all right, title and interest in and to the Consigned Horse(s): Consignor warrants that Consignor is the sole registered owner of the Consigned Horse(s). Consignor further warrants that title to the listed horse(s) is free of any liens or encumbrances. Consignor further agrees to indemnify and hold the Consignee harmless against all suits, actions, costs or charges, whatsoever, in respect to any charges, encumbrances or defects in title on the listed horse(s).

3.2 Consignor hereby grants permission to Consignee to advertise, if it desires to do so, Consignor, Consigned Horse(s) at, but not limited to, the following venues: Consignee's website(s), internet banner advertising, in any direct mailings, public sales list, trade magazines, fliers, personal communication, and the like.

3.3 Consignor hereby grants permission to Consignee to edit, correct, or add to statements, in regards to Consigned Horse(s).

3.4 Consignor agrees to notify Consignee of any irregularities, blemishes, unsoundness or defects of any kind (including surgical alterations) in writing during the terms of this agreement, and hereby authorizes Consignee to communicate such irregularities; blemishes, unsoundness or defects before the Consigned Horse(s) are sold.

3.5 Consignor hereby agrees to provide all documents pertaining to the Consigned Horse(s) necessary to complete the sale and to transfer ownership, registration and title to the buyer upon conclusion of the transaction. For California sales this includes disclosure of any and all medical records of said horse. Medical records and all prior purchase examinations shall be provided to Consignee at the time of signing this agreement.

3.6 All perils are at risk of the Consignor and prospective Purchaser. Consignee acts as an agent only.

3.7 Consignor is liable to prospective Purchasers for guarantees listed herein. Consignee is not liable for guarantees made by Consignor, as to soundness, quality or condition of listed horse. Consignor agrees to defend and hold Consignee harmless from any such claims brought against Consignor and/or Consignee.

3.8 Consignor warrants the listed horse(s) is/are sound of wind, limb and eyes, free from prohibited substances, does not have EPM, weave, crib, wind-suck or roar, or any other physical or emotional defect that might result in injury or damage to the Purchaser.

#### 4. **CONSIGNEE WARRANTIES AND REPRESENTATIONS**

4.1 Consignee has the right to enter into this agreement.

4.2 Consignee has no ability to control market conditions or interest level in consigned horse(s), therefore Consignee makes no representations and extends no warranties of any kind either express or implied as to consignee's ability to sell, or find a purchaser, for Consigned horse(s). Consignee makes no warranty that the sale will meet consignor requirements.

#### 5. **LIMITATION OF LIABILITY**

5.1 It is understood and agreed that Consignee liability for any damages suffered by Consignor, Consignor buyer, or any third party, whether in tort, under any warranty theory, in negligence, fraud or otherwise shall be limited to the amount of ten dollars (\$10.00). Under no circumstances shall Consignee be liable for any special, indirect or consequential damages, including but not limited to, lost profits, accident, and/ or injury to animals, consigned horse(s), persons, and/or property, unauthorized access to or alteration of Consignor or bidder(s) transmissions or data, action of Consignor, any bidder, buyer, or any other third party, even if Consignee has previously been advised of the possibility of such damages. Consignor further agrees that Consignee shall not be liable for any damages arising from interruption, suspension or termination of buyer(s) or Consignor from the sale.

5.2 Consignor agrees and understands that there is a higher risk of loss involved when consigned horse(s) are allowed out of consignor's barn on pre-purchase trial(s) to a potential purchaser's/buyer's barn. Consignor agrees that this is a risk involved with selling the consigned horse(s) and will hold consignee harmless from any damage(s) or loss resulting from the consigned horse(s) leaving consignor's barn, or if stabled with consignee, for pre-purchase trial(s).

5.3 The Consignor and Consignee agree that if a horse is requested to be taken on trial to a barn outside the control of Consignor and/or Consignee that the trial period shall be limited to days. The costs associated with delivering said horse shall be at the cost of prospective buyer and/or Consignee and not the Consignor.

5.4 The Consignor has been advised to secure mortality, major medical and loss of use insurance on said horse while under this contract. Securing insurance is at the sole discretion of the Consignor. Consignor has been advised and fully understands that Consignee has NO insurance coverage whatsoever for the horse consigned.

#### 6. **INDEMNIFICATION**

6.1 Consignor agrees to defend, indemnify and hold harmless Consignee, Consignee's employees, directors, officers and trustees and all of their successors, heirs, administrators, executors, and legal representatives, from and against liability for any and all claims, demands, damages, losses, costs and expenses, including without limitation, investigative costs, court costs and attorneys fees, and including, but not limited to economic loss, personal injury, injury to animals, injury to consigned horse(s), property damage and/or lost profits arising from or in any way connected with Consignee's performance under this agreement. Consignor's obligations under this paragraph shall survive the expiration or termination, for any reason, of this agreement.

#### 6.2 **California Equine Liability Act**

The parties agree and acknowledge the provision of California law, which states as follows:

WARNING

Under California law, an equine activity sponsor or equine professional is not liable for an injury to, or the death of, a participant in equine activities resulting from the inherent risks of equine activities.

**7. TAXES**

7.1 Consignor agrees and understands that any and all taxes that may become due as a result of a sale (except Consignee's income tax) of Consigned Horse(s) are the responsibility of the Consignor and the purchaser/buyer/successful bidder(s). In the event that any taxing authority contends that a tax should have been collected on the sale of said Consigned Horse(s), Consignor hereby indemnifies, agrees to defend, and holds Consignee harmless from any and all liability, claims, and expenses (including, but not limited to, attorneys fees) that may arise from or as a result of any such claim by a taxing authority.

**8. ERRORS AND OMISSIONS**

8.1 Consignor agrees to hold harmless Consignee for any errors, or omissions made to any advertising. Consignor acknowledges that Consignee has made all reasonable efforts to assure the accuracy and completeness of all advertising.

**9. NOTICE OF TERMINATION**

9.1 Consignor agrees that thirty (30) days written notice shall be given to Consignee as to the termination of this AGREEMENT.

9.2 In the event that Consignor chooses to terminate this AGREEMENT before the successful sale of horse(s), Consignor must pay to Consignee a fee of \$ per month as fair compensation for Consignee's time and effort spent to promote the horse(s) in a professional manner.

**10. REMEDY FOR BREACH OF AGREEMENT**

10.1 Consignor agrees to pay Consignee, the Sale(s) Commission pursuant to paragraph for Consignor breach of any provisions of this agreement. This paragraph shall survive the expiration or termination of this agreement.

10.2 If Consignee does not receive payment for invoices within 60 days of invoice date, Consigned horse becomes property of Consignee.

Date Signature of Consignor

Date Signature of Consignee

**SCHEDULE A**

Horse's Name

Age

Height

Color

Breed

Sex

Brand

Microchip Number

Minimum agreed upon sale price

Known defects/other health concerns

Affix Photo(s) Below

**SCHEDULE A**

Horse's Name

Age

Height

Color

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Affix Photo(s) Below