

Mare

Season Booked

SHOWGUN PGN+ +//
BREEDING AGREEMENT
(Transported Cooled Semen)

THIS BREEDING AGREEMENT (hereinafter "Agreement") is made and entered into on this ____ day of _____, 20__ , by and between _____ of _____;

telephone:(____)_____ (hereinafter "Mare Owner"), Carol Steppe, an individual (hereinafter "Stallion Owner"), and **Day Dreams Arabians, Inc.**, a California corporation (hereinafter "Farm"), with reference to the following:

A. Stallion Owner is the owner of the purebred Arabian stallion known as **SHOWGUN PGN+ +//**, Registration No. _____ (hereinafter "Stallion"), and Mare Owner is the owner of a mare ("hereinafter "Mare") known as _____, breed _____, Reg. No. _____, color _____, foaled in _____, sire _____ and dam _____;

B. Stallion stands at stud at Farm located at 2065 Refugio Road, Santa Ynez, California 93460, (805) 688-9106; and

C. Mare Owner desires to contract for one season's booking to Stallion, which Mare Owner may exercise in the ____ breeding season;

NOW, THEREFORE, upon the conditions and representations herein made, the parties hereto agree as follows:

1. **Fees.** Mare Owner shall pay to Farm, at the address given above, the following fees:

1.1 **Stud Fee.** The stud fee under this Agreement for Stallion shall be \$2,000.00, composed of a \$500.00 non-refundable booking fee, paid upon execution of this Agreement, and a \$1,500.00 breeding fee, to be paid when Mare Owner books the breeding season, which season then shall be known as the "season originally booked." Upon payment by Mare Owner of the breeding fee, Stallion Owner shall reserve for Mare Owner one season's booking to Stallion for the season originally booked by Mare Owner. This reservation shall be for Mare or for a substitute mare, provided such substitute is approved in writing by Stallion Owner and Farm, or their successors or assigns (Mare and any such substitute mare are hereinafter collectively referred to as "Mare").

1.2 **Transported (Cooled) Semen Fees.** Mare Owner shall pay the following fees:

1.2.1 **Refundable Container Deposit Fee:** For use of the transported semen container, Mare Owner shall pay a refundable deposit of \$ _____, to be paid to Farm before semen is transported to Mare.

1.2.2 **Semen Collection/Handling Fee:** A semen collection/handling fee in the amount of \$ _____ shall be paid to Farm before semen is transported to Mare.

1.2.3 **Transportation Fees:** The going rate for next day air (Federal Express or other overnight delivery service) or the going rate for same day delivery (courier service to airport – only offered at farms where reasonably available), and the going rate for Saturday delivery if Saturday delivery is requested by Mare Owner, shall be billed/charged to Mare Owner. Mare Owner shall provide Farm with Mare Owner's Federal Express account number for charging all Federal Express charges under this section 1.2.3. Mare Owner will be billed/charged for any additional costs that may be incurred due to USDA or other governmental regulations.

1.2.4 **Late Fee For Late Return of Transported Semen Container:** A late fee in the amount of \$ _____ per day shall be billed/charged Mare Owner for every day the transported semen container is past due the date by when it is to be returned to the Farm (see section 3.6).

1.3 **Credit Card.** Mare Owner hereby authorizes Stallion Owner and Farm to charge on Mare Owner's credit card all services and costs, including late fees, incurred on behalf of Mare Owner and Mare. Mare Owner agrees to maintain on file with the Farm a current Credit Card authorization for the season originally booked and, if Mare Owner is entitled to a rebreeding, a new credit card authorization for the season immediately following the season originally booked.

1.4 **Due Date for Payment of Billed Fees/Costs.** All charges relating to Mare, including, but not limited to, late fees for late return of transported semen container and Saturday delivery fees, shall be due upon delivery to Mare Owner of the billing statement (see Section 13 below) and shall be paid within twenty (20) days after said delivery, unless Farm can accept payment by credit card, in which case Mare Owner's credit card will be charged for all such fees/costs.

1.5 **Late Payment Charge.** The parties hereto acknowledge that it would be impracticable and extremely difficult and expensive to attempt to determine the actual damages sustained by Stallion Owner and Farm, and their successors and assigns, as a result of Mare Owner's late payment of an amount owed hereunder and that a late charge equal to five percent (5%) of the amount passed due, compounded annually, from the date when said amount was due until paid in full, represents a reasonable endeavor to fix Stallion Owner's and the Farm's, and their successors' and assigns', probable loss resulting from the delinquent payment, bears a reasonable relation to such loss, is reasonable in amount, and is in addition to all other rights and remedies of Stallion Owner and Farm, and their successors and assigns, provided by law and this Agreement upon Mare Owner's failure to make payment when due.

1.6 **Refunds.**

1.6.1 **Container Deposit.** The transported semen container deposit shall (a) be refunded to Mare Owner when (i) the container is received by Farm and (ii) Farm is notified by Mare Owner that Mare has been checked in foal or that the container no longer is needed for more shipments to Mare Owner, or (b) at Stallion Owner's discretion, be set off against any fees/costs then due to Stallion Owner or Farm when the container is received by Farm.

1.6.2 **Breeding Fee.** In the event Stallion, because of death, disease or infirmity, is unable to perform stud services in the breeding season originally booked and/or in the season immediately following the breeding season originally booked, and a live foal does not result from the mating under this Agreement, the breeding fee shall be refunded to Mare Owner, without interest, or at Stallion Owner's discretion, may be set off against any fees/costs then due to Stallion Owner or Farm, as follows:

1.6.2.1 Fully refunded if no semen was shipped.

1.6.2.2 Fifty percent (50%) refunded if Mare was bred no less than one (1) and no more than three (3) cycles in the season originally booked or in the season immediately following the season originally booked.

1.6.2.3 No refund if four (4) shipments of semen (i.e., for four [4] cycles) was shipped in the season immediately following the season originally booked.

1.6.3 **All Other Fees.** With the exception of those listed in sections 1.6.1 and 1.6.2, no stud fee, booking fee, transportation fee, handling fee or any other fee or charge under this Agreement shall be refundable.

2. **Conditions For Transporting Semen.**

2.1 **Required Documentation.** Prior to transportation of semen, Mare Owner, at Mare Owner's expense, shall be responsible for completing the following:

2.1.1 A certificate from a licensed equine practitioner stating:

2.1.1.1 Mare is open (or in foal), suitable for breeding, and has normal reproductive organs; and

2.1.1.2 That within the last sixty (60) days, Mare has had a negative uterine culture.

2.1.2 A copy of the registration certificate for Mare.

2.1.3 A health certificate indicating current vaccinations/tests for:

2.1.3.1. Equine Influenza,

2.1.3.2 Strangles,

2.1.3.3 Tetanus,

2.1.3.4 Sleeping Sickness,

2.1.3.5 Rhinopneumonitis (virus abortion),

2.1.3.6 a negative Coggins test (Swamp Fever), and

2.1.3.7 West Nile.

2.1.4 If Mare does not receive vaccination against Rhinopneumonitis during the 5th, 7th and 9th months of pregnancy and aborts due to Rhinopneumonitis, and/or if Mare Owner did not have completed the veterinarian certificate required by section 2.1.1 above and/or proof of vaccination required by section 2.1.3 for 2.1.3.1 through 2.1.3.7 before breeding, Stallion Owner and Farm, and their successors and assigns, shall not be liable, and the right to rebreed (live foal guarantee) under Section 4 shall be void and of no effect

2.2 **Payment of Fees.** Prior to transportation of semen, the Stud Fee, the Semen Collection/Handling Fee, and all amounts then due to Farm and Stallion Owner, whether pursuant to this Agreement or any other agreement between Mare Owner and Farm or Mare Owner and Stallion Owner, must be paid up in full.

2.4 **Other Requirements.** Prior to transportation of semen, all requirements of Section 3 must be met.

3. **Procedures for Transported Semen.** The procedures for the shipment of transported cooled semen are the following:

3.1 **Collection Schedule.** Collection of semen is at the discretion of Farm, and may vary depending upon the Stallion's show and presentation schedule and health, and Farm's schedule, and may change from time to time. Mare Owner is responsible for keeping in touch with Farm and making himself/herself aware of when collection of semen will take place.

3.2. **Mare Owner Notification To Farm For Shipment.** Mare Owner shall notify Farm, at least forty-eight (48) hours in advance of the need of shipment of semen, to schedule the shipment and to confirm the method of shipment (overnight or same day, see section 1.2.3).

3.3. **Semen Availability.** Semen availability is on a first come first served basis. Mare Owner acknowledges that all orders for semen are subject to availability, and that mares on Farm have first priority.

3.4. **Maximum Shipments.** Mare Owner may receive no more than four (4) semen shipments per breeding season, to be used only for Mare or substitute mare booked in accordance with this Agreement.

3.5. **Substitution of Mare or Switch to Breeding at Farm.** Another mare may be substituted for Mare upon (a) approval of the substitute mare by Stallion Owner and Farm and (b) Mare Owner's compliance with the requirements in Section 2 above for the substitute mare. Switching from transported semen to an artificial insemination breeding at the Farm also may occur upon consent by the Farm and Stallion Owner and execution of an on site breeding agreement by artificial insemination.

3.6. **Return Transported Semen Container.** Mare Owner shall return the transported semen container within five (5) days of shipment to Mare Owner. If the container is not returned within said five (5) day period, Mare Owner shall pay the late fee set forth in section 1.2.4 above.

3.7. **Checked in Foal.** Mare Owner shall inform the Farm when the Mare is checked thirty (30) days in foal.

3.8. **Mare Owner's Responsibility for Transported Semen and Breeding.** Mare Owner assumes full responsibility and risk of loss for the proper care and handling of the cooled semen once the semen is delivered to the carrier for shipment/delivery to the Mare. Mare Owner also assumes full responsibility for the proper insemination of the Mare. Neither Stallion Owner or the Farm, or their employees or veterinarians, shall have any responsibility or liability to anyone for the handling of the semen after it is delivered to the carrier for shipment to the Mare.

3.9. **Showing or Presentation of Stallion.** Stallion Owner reserves the right to show or present the Stallion during the breeding season, during which times semen shall not be available.

3.10. **Breeding Season.** The breeding season is from March 1 through August 30.

4. **Right to Rebreed.**

4.1. **Live Foal.** A "live foal" is a foal that stands and nurses without assistance for forty-eight (48) hours.

4.2. **Season for Rebreding.** If a live foal does not result from this mating, and if the conditions set forth in section 4.3 are met, Mare or a substitute mare approved by Stallion Owner and Farm, or their successors or assigns, may be rebred to Stallion in the season immediately following the season originally booked by this Agreement, subject to the limitations set forth in section 4.4.

4.3. **Conditions to Right to Rebreed.** The right to rebreed is conditioned upon having provided Farm the required documentation under section 2.1 above before breeding and the following:

4.3.1 **Circumstances Qualifying for Right to Rebreed.**

4.3.1.1 Within ninety-six (96) hours of the death of the foal or discovery of the aborted fetus, Mare Owner must notify Farm that there was not a live foal and the general circumstances concerning that result; or

4.3.1.2 If after unsuccessful attempts to get the Mare in foal and the Mare Owner desires to rebreed to Stallion in the season immediately following the season originally booked, Mare owner must give written notice to Farm of Mare Owner's desire to rebreed to Stallion in the following year.

4.3.2 **Veterinarian Statement.** Within twenty (20) days of the death of the foal, discovery of the aborted or absorbed fetus, or delivery to Farm of the written notice under section 4.3.1.2 of lack of pregnancy, Mare Owner must produce a written statement satisfactory to Farm and Stallion Owner from a competent, licensed equine practitioner, that certifies:

4.3.2.1 That the failure to have a live foal did not result from any act or omission of Mare Owner or those assisting Mare Owner, other than a choice not to breed Mare late in the season originally booked.

4.3.2.2 That all due care for Mare and unborn foal, if any, had been exercised;

4.3.2.3 That the Mare and foal, if any, had been afforded all reasonable protection; and

4.3.2.4 That the Mare received her Rhinopneumonitis vaccinations as required by section

2.1.3 above.

4.3.4 **Rebreeding/Handling Fee.** Before transportation of semen for the rebreeding season, Mare Owner shall pay to Farm a \$200.00 rebreeding/handling fee, all fees under section 1.2 and all past due amounts, in full.

4.4. **Limitations on Right to Rebreed.** If Stallion is for any reason unavailable or unable to service Mare upon the return breeding, Stallion Owner, or its successors or assigns, or Farm, if agreed to by Mare Owner, may substitute another stallion. Under no circumstances will frozen semen be available to fulfill this Agreement. If Mare Owner

fails to deliver Mare or substitute mare for the return breeding in the season immediately following the season originally booked by this Agreement, then (i) Mare Owner's rights under this Section 4. shall be forfeited, (ii) there shall be no further rights to rebreeding, and (iii) no part of the stud fee, breeding fee or any other fee or charge, shall be refunded. If Mare or substitute mare is delivered for rebreeding in the season immediately following the season originally booked by this Agreement, but a live foal does not result from the return breeding, then (i) there shall be no further rights to rebreeding, and (ii) no part of the stud fee, handling fee or any other fee or charge hereunder shall be refunded.

5. **Registration of Foal.** The foal resulting from this mating shall not be eligible for registration until all fees owned to Stallion Owner and Farm, whether pursuant to this Agreement or otherwise, have been paid in full, including the cost of the transported semen permit and all late fees.

6. **Representations/Limitations/Warranties.**

6.1 **Stallion Owner's Representations.** Stallion Owner represents that any semen transported under this Agreement will be from Stallion.

6.2 **Mare Owner's Representations.** Mare Owner represents (a) that all applicable Mare and personal information is true, complete and correct, including all information submitted by Mare Owner under Section 2.1 of this Agreement; and (b) if at any time any tax is imposed by any governmental authority on or as a result of this Agreement, Mare Owner agrees to pay the tax, together with any and all accrued interest and penalties related thereto, upon demand therefor by Stallion Owner or Farm or their agent or representative.

6.3 **Limitation on Liability.** Except for gross negligence, recklessness, or willful misconduct, Stallion Owner and Farm, and their successors and assigns, and their respective employees, agents and independent contractors, shall not be liable for any sickness, disease, estray, theft, death or injury which may be suffered by Mare, or any foal of the Mare, or for any other loss or cause of action whatsoever arising out of or in any way connected with this Agreement or representations, actions or omissions arising out of or related to this Agreement.

6.4 **EXCLUSIVE WARRANTIES AND LIMITATIONS OF REMEDIES.** The express warranties stated herein are exclusive of all other warranties and representations, and except as expressly warranted in section 6.1 herein, the breeding right is sold AS IS. ALL IMPLIED WARRANTIES, INCLUDING WARRANTIES OF MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSE AND OTHERWISE, ARE EXCLUDED. It is agreed that Mare Owner's remedies for damages or injury, whether based on contract, statute, tort or otherwise, shall not, in all events, exceed refund of all fees paid by Mare Owner under this Agreement (without any interest thereon). **ALL INCIDENTAL AND CONSEQUENTIAL DAMAGES ARE EXCLUDED**, including without limitation any damages arising from the nonperformance of obligations which Mare Owner may have undertaken to any third party in reliance upon any promises or representations made in this Agreement.

6.5 **Notice of Claim by Mare Owner.** Mare Owner shall make no claim for any breach of this Agreement, for rescission or revocation of acceptance, nor for any warranty, misrepresentation, mistake or tort, unless Mare Owner first notifies Stallion Owner in writing of the basis, nature and amount of the claim within the period specified by the provision of this Agreement claimed to have been breached, or if here is no such period specified, then within thirty (30) days of the date of the claimed breach.

6.6 **Binding Arbitration.** Any dispute arising out of or related to this Agreement shall be resolved by binding arbitration administered by the American Arbitration Association, and shall be submitted to a neutral arbitrator who is familiar with the equine industry. The arbitrator shall award fees and costs to the prevailing party.

7. **Remedies on Default.** In the event of Mare Owner's default in any of Mare Owner's obligations hereunder, including Mare Owner's failure to make timely payments hereunder, Stallion Owner or Farm, or their successors or assigns, at the option of any one of them, may cease transporting semen to Mare. No delay, omission or failure by a party to this Agreement, or its successors or assigns, in taking advantage of or availing themselves of any right or remedy shall constitute a waiver of that or any other right or remedy available to the party, and no waiver of any breach or right or remedy shall be a waiver of any other or future breach, right or remedy.

8. **Insurance.** Mare Owner shall be solely responsible for maintaining insurance on Mare and the shipment of the transported semen, including public liability, accidental injury, theft, equine mortality, loss of use of mare, and loss or damage to shipment of semen. All risks, including but not limited to, loss and/or delay of shipment of transported semen container while in transit by carrier, damage to container and/or contents of container in shipment, acts of God, war or terrorism while in shipment, effectiveness of Mare Owner's breeding program and procedures, sickness, disease, estray, theft, death and/or injury of Mare, and connected with all other activities affecting Mare, are to be borne solely by Mare Owner.

9. **Indemnification.** Mare Owner shall indemnify and hold harmless Stallion Owner and Farm, and their successors and assigns, and their respective employees, agents and independent contractors, and each of them (hereinafter "Indemnitees"), of and from any and all claims, demands, causes of action, damages, costs, expenses, losses, and liabilities, in

law or in equity, of every kind and nature whatsoever arising out of or in any manner connected with this Agreement, regardless of any simple negligence of any one or combination of Indemnitees (but not regardless of gross negligence, recklessness or willful conduct of any one or combination of Indemnitees). Upon the request of the respective Indemnatee or Indemnitees, Mare Owner shall, at Mare Owner's sole cost, expense and risk, defend any and all suits, actions, arbitrations or other proceedings brought or instituted by third persons against any one or combination of Indemnitees with respect to any matters subject to Mare Owner's agreement to indemnify and hold harmless contained herein. Mare Owner shall pay and satisfy all judgments and decrees and penalties that may be rendered against any one or combination of Indemnitees in any such suit, action, arbitration or other proceeding. Mare Owner shall reimburse Indemnitees for all costs and expenses, including attorneys' fees, incurred by each of them in connection with any such suit, action, arbitration or other proceeding.

10. **Attorneys' Fees.** In the event any one or combination of Stallion Owner, Farm, and their successors and assigns, engages the services of an attorney or attorneys to enforce the terms of this Agreement, Mare Owner shall pay all costs and reasonable attorneys' fees regarding the same incurred by Stallion Owner, its successors and assigns, whether or not suit is brought.

11. **Successors.** This Agreement may be assigned or transferred by either party upon fifteen (15) days' prior written notice to the other, subject to the following sentence. Mare Owner may transfer this Agreement only with the sale of Mare and only upon receipt of a written agreement by the buyer to be bound by the terms of this Agreement and to assume the obligations of Mare Owner under this Agreement. The rights, duties and liabilities created hereunder shall inure to the benefit of and be binding upon the heirs, executors, administrators, successors and assigns of the parties hereto.

12. **Choice of Forum and Choice of Law.** This Agreement shall be deemed to have been entered into in Santa Barbara, California. Santa Barbara County, California, shall be the appropriate legal forum for any dispute which may arise out of or be in any way connected with this Agreement. This Agreement is entered into under and shall be construed in accordance with the laws of the State of California.

13. **Notices.** All notices, bills and other communications required hereunder shall be effective and binding if delivered either personally or by mail. All such notices shall be in writing, and shall be deemed delivered when personally delivered to the party to whom it is directed, or in lieu of such personal delivery, forty-eight (48) hours after deposit in the United States mail, first-class postage prepaid, or twenty-four (24) hours after deposit with an overnight delivery service, postage prepaid, addressed to the parties as follows:

TO Stallion and Farm: At Farm's address set forth in Paragraph B of page 1 above
TO Mare Owner: At Mare Owner's address set forth on page 1 above

or at such other address as the parties may designate in writing.

14. **Counterparts.** his Agreement may be executed in counterparts.

15. **Entire Agreement and Severability.** This Agreement contains the entire understanding of the parties concerning its subject matter, and there are no oral or written promises or representations upon which Mare Owner is relying except as expressly set forth herein. The invalidity or unenforceability of any term or clause of this Agreement shall not affect the validity and enforceability of any other term and clause herein. This Agreement may not be modified except in writing, signed by both parties.

16. **Effective Date.** This Agreement shall be effective upon execution by Stallion Owner, or Farm on behalf of Stallion Owner, and receipt by Stallion Owner or Farm of the non-refundable booking fee and credit card authorization.

17. **Other Terms.** _____

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

**MARE OWNER HAS READ AND ACCEPTS ALL OF THE TERMS AND CONDITIONS
ON EACH PAGE OF THIS AGREEMENT**

Stallion Owner:
Carol Steppe

Mare Owner:

(Print Name of Corporation, Partnership
LLC, dba, Individual, Joint Owners, Other)

Carol Steppe

By: _____
(Signature)

Farm:
Day Dream Arabians, a California corporation

(Print Name of Signor of Mare Owner and Capacity)

By: _____
(Signature)

By: _____
(Signature)

(Print Name of Signor for Farm and Capacity)

(Print Name of Signor of Mare Owner and Capacity)