

# SPARKLE CREEK LLC

645 Pisgah Road  
Eads, TN 38028  
Tel. 901-753-8261  
Fax. 901-753-3633

## ODYSSEY SC - FROZEN SEMEN BREEDING AGREEMENT

I.

### PARTIES.

THIS AGREEMENT is made this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_ by and between SPARKLE CREEK LLC, a Tennessee a Limited Partnership (hereinafter "Sparkle Creek"), and:

\_\_\_\_\_  
Name (hereinafter "Client")

\_\_\_\_\_  
Address

\_\_\_\_\_  
City

\_\_\_\_\_  
State

\_\_\_\_\_  
Country

\_\_\_\_\_  
Zip Code

\_\_\_\_\_  
Phone

\_\_\_\_\_  
Fax

\_\_\_\_\_  
E mail address

### II. "MARE" OR "HORSE" TO BE BRED.

This Agreement pertains to the purebred or part Arabian horse (hereinafter "the Horse" or "the Mare"):

\_\_\_\_\_  
Name of First Horse

\_\_\_\_\_  
Sire

\_\_\_\_\_  
Dam

\_\_\_\_\_  
Registration Number

\_\_\_\_\_  
Date Foaled

\_\_\_\_\_  
Color

III. OWNERSHIP. Client (make one): ( ) owns 1 00% of Horse; ( ) leases the Horse from:

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Phone

( ) or, has purchased the horse on an installment contract with final payment due \_\_\_\_\_ and title and registration are currently held by: \_\_\_\_\_.

If Client does not own 1 00% of the Horse, the names, addresses and phone numbers of all owners of the Horse are:

\_\_\_\_\_

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Client represents and warrants that Client is authorized to bind each owner of the Horse to this Agreement, as if each such owner was the "Client" hereunder and Client acknowledges and agrees that the liability of each owner of the Horse under this Agreement shall be joint and several.

**IV. BREEDING FEES.**

A. **SERVICE FEE.** Client contracts to breed the Mare to ODYSSEY SC (AHR #0566330), hereinafter the "Stallion") during the \_\_\_\_\_ breeding season. The Service Fee for the frozen straws shall be \$3,500.00. The total sale of the frozen straws shall constitute as a final, irrevocable and non-refundable Service Fee, payable upon Clients execution of this Agreement.

B. **CLIENT WILL PAY THE SERVICE FEE IN FULL PRIOR TO TRANSPORTATION OF THE FROZEN STRAWS.**

C. Client is responsible for all cost related to frozen semen collecting, freezing, testing and testing necessary for export, storage and transportation of the frozen straws. Four (4) frozen straws shall be deemed adequate for breeding purposes per contract. If additional straws are necessary to impregnate the Mare the straws can be purchased for an additional fee of \$500.00 per straw. All additional fees for the additional straws involving storage, processing and shipping shall be the sole financial responsibility of the Mare Owner.

In the event Sparkle Creek has, prior to the date of this Agreement, transported frozen straws to the country in which the Client is located, then the Client shall pay, in addition to the Service Fee, a Processing/Shipping Fee in the amount of \$350.00 for each breeding right purchased hereunder.

Client represents and warrants that the Mare shall be suitable for breeding and that the Mare is and shall be free of all disease and illness which may preclude, affect or otherwise impact the breeding or gestation process. In the event the Mare is checked in foal and Client has not used all four (4) straws allocated to the breeding of such Mare, then Client may elect to utilize the unused frozen straws on any of Client's mares, provided that Client notifies Sparkle Creek of such election and pays to Sparkle Creek an additional Service Fee in the amount set forth in this contract. Client shall not be eligible to register any foal resulting from the use of frozen semen hereunder until and unless all fees are paid to Sparkle Creek.

**V. LIMITATION OF LIABILITY; ASSUMPTION OF RISK; INDEMNIFICATION AND LEGAL ACTION.**

A. All special, incidental, and consequential damages, including, but not limited to, lost profits, are hereby excluded disclaimed and shall not be awarded or recovered by Client. In no event shall Client's remedies exceed the amount of the fee paid for the service complained of. Client expressly acknowledges that Sparkle Creek makes no warranty regarding the ability of Client's mare to conceive using frozen semen due to the variables involved in the breeding process, many of which are outside of the control of Sparkle Creek.

B. As a condition precedent to any legal action by the Client, Client shall notify Sparkle Creek (as used herein "Sparkle Creek" shall be deemed to include all partners, members, agents, employees, contractors and others affiliated with Sparkle Creek LLC) in writing at least thirty (30) days in advance of initiating any legal action against Sparkle Creek, or any of them, regarding or concerning, in whole or in part, the Horse, any of Client's horses, the Agreement or any other claim against Sparkle Creek. Within twenty (20) days of receiving such notice, Sparkle Creek shall be entitled to require that such action be resolved by submission to binding arbitration before the American Arbitration Association ("AAA"), in accordance with the Rules of the AAA, with such arbitration to take place in Memphis, Tennessee, USA. If Sparkle Creek elects binding arbitration, both Sparkle

Creek and Client to the fullest extent allowed by law, waives trial by jury or by court.

Notwithstanding anything herein to the contrary, any action, proceeding or arbitration against the Sparkle Creek regarding the Horse, any of the Client's horses, this Agreement or any other claim against the Sparkle Creek or any of them must be filed with a court competent subject matter jurisdiction or the AAA (if Sparkle Creek so elects) no later than one hundred twenty (120) days from the date of the claimed loss or be forever barred. The prevailing party to any such action, proceeding or arbitration shall be entitled to collect all reasonable attorneys' *fees* and costs, in addition to all other relief, through and including petitions and appeals.

**VI. ACCEPTANCE. THIS AGREEMENT MUST BE SIGNED BY THE CLIENT AND SPARKLE CREEK AT THE TIME OF OR PRIOR TO TRANSPORTATION OF FROZEN STRAWS.**

**VII. ASSIGNABILITY.** Client may not assign any right or delegate any duties under this Agreement without written consent of Sparkle Creek, which may be withheld in Sparkle Creek's discretion. Sparkle Creek may assign any right or delegate any duties under this Agreement upon written notice to Client.

**VIII. TAXES.** Client shall pay for and shall indemnify and hold Sparkle Creek harmless from any sales, excise, use or similar tax relating to the Horse or any of the Client's horses, including and interest and penalty hereon.

**IX. ENTIRE AGREEMENT; INTERPRETATION; CHOICE OF LAW; ETC.** This Agreement contains the entire understanding of the parties concerning the subject matter and supersedes any prior or contemporaneous agreement between the parties. This Agreement may only be modified or amended in writing stating the modification or the amendment of this Agreement, which is signed by the Client and Sparkle Creek. This Agreement shall not be construed against the Sparkle Creek on the basis that Sparkle Creek drafted the same. Headings are for the convenience only and are in part of this Agreement. The invalidity *of* or unenforceability of any term or provision of this Agreement shall not affect the validity or enforceability of the remainder. The Agreement shall be construed and governed by the internal laws of the State of California of the United States of America.

THE CLIENT HAS READ AND ACCEPTS ALL THE TERMS OF THIS AGREEMENT.

SPARKLE CREEK LLC

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

\_\_\_\_\_  
CLIENT SIGNATURE

\_\_\_\_\_  
DATE

\_\_\_\_\_  
DATE