

Duane Swingley Auctioneers, LLC
Duane Swingley, Auctioneer

License # 2018000114

2019 OTBO Fall Mixed Sale
Sunday, October 20th, 2019 – 1:30pm

Hosted by:



Sponsored by:



Entry Deadline: August 5th, 2019

Return Contracts to: Duane Swingley Auctioneers, LLC
ATTN: Sale Entries
11100 E County Road 100 N
Selma, Indiana 47383

Due on Sales Day: Original Jockey Club Registration Papers
Coggins
Health Certificate
Vet Certificates and Stallion Certificates (In Foal mares)

***Any horse missing any of the above items will not be allowed to be offered at Auction on sale day**

Entry Fee: \$300 Entry fee plus \$300 sale day fee. Entry Fee to be submitted with signed contract at time of entry. Sale Day Fee of \$300 for every horse on the grounds, regardless of buy backs or final sale price and will be due at the conclusion of the auction. Jockey Club papers will be held at the discretion of Duane Swingley Auctioneers until accounts are paid in full.

Questions: Duane Swingley: (765) 212-8424

Michelle Collins (317) 509-6372

DuaneSwingleyAuctioneers.com

DuaneSwingleyAuctioneers@yahoo.com

PLEASE READ CAREFULLY BE FOR SIGNING

**To: Duane Swingley Auctioneers
11100 E County Road 100 N
Selma, Indiana 47383**

Owner agrees to the following terms and conditions:

- 1.) Auctioneer is hereby appointed as the Owner's/Seller's agent to sell each horse consigned with full authority to transfer title thereto, to receive proceeds of sale for Owner's/Seller's account, and to distribute sale proceeds as Auctioneer reasonably believes appropriate. Owner/Seller is solely responsible for the correct identity of each horse consigned, and to the accuracy of any and all information regarding each horse in the sales catalog. Owner/Seller agreed to review all information and report any material inaccurate or omissions to Auctioneer prior to the sale.
- 2.) Owner/Seller warrants title and ownership of each horse consigned, free and clear of any liens and adverse claims whatsoever except those which Owner/Seller communicates to Auctioneer in writing prior to sale.
- 3.) The three hundred dollar (\$300) entry fee for each horse consigned will be paid when this contract is submitted and the entry fee will be fully earned and non-refundable when Auctioneer accepts this contract. In addition to the entry fee, Owner/Seller will pay the Auctioneer a sales day fee of three hundred dollars (\$300) for each horse sold or bid back in Owner's/Seller's account. Owner/Seller also has to pay Auctioneer all amounts customarily charged to consignors in connection with the sale of their horses, if applicable. The commission and other amounts due Auctioneer may be deducted from Owner's/Seller's proceeds and the commission shall be fully earned by Auctioneer at the fall of the hammer, even in the event that the horse is returned to the Owner/Seller as unsold pursuant to the Conditions of Sale or receives no bid. In the event amounts owned to Auctioneer exceed net proceeds of Owner's/Seller's consignment, Owner/Seller shall immediately pay Auctioneer the balance due and said balance shall bear service charges of two percent (2%) per month from the date of sale until balance is paid in full.
- 4.) Owner/Seller may withdraw in writing any consigned horse prior to the assignment of catalog hip numbers. Thereafter, Owner/Seller may withdraw any consigned horse if it is unfit for sale due to material veterinary reasons acceptable to the Auctioneer upon representation of notarized veterinary certificates stating the condition of the horse which necessitates withdrawal. If Owner/Seller sells any consigned horse prior to the auction or withdraws or fails to present any horse for sale at the auction for reasons other than as authorized above, Owner/Seller agrees to pay Auctioneer a flat fee of \$600 before the horse leaves the grounds.
- 5.) Auctioneer shall have the right, in its sole and absolute discretion, to extend credit to the Buyer of any horse in Owner's/Seller's consignment. In the event the Buyer of the horse fails to sign the Acknowledgment of Purchase form presented to Buyer by Auctioneer or fails to make settlement as provided in the Conditions of Sale, or should Auctioneer, in its sole and absolute discretion, elect not to credit to Buyer and the Buyer fails to pay the full sale price may be less than the original sales price. Auctioneer will attempt to give Owner/Seller notice of such resale, but Owner/Seller agrees to indemnify and hold Auctioneer harmless from any adverse consequences of such resale regardless of whether Owner/Seller receives notice before the fact. Should Auctioneer elect not to resell such horse, Owner/Seller will accept return of such horse as unsold provided that Auctioneer waives sales commission.
- 6.) Owner/Seller agrees to provide Auctioneer, at a time specified by Auctioneer prior to the commencement of the Sale, all documents pertaining to the horse necessary to complete the sale, including but not limited to, Jockey Club Certificate (JCC) of Foal Registration, blood testing, Stallion Service Certificate, current certification of negative Coggins, veterinary certificate as to breeding status, and any government required health and immunization records and certification. If the JCC for any horse consigned has not been issued, Owner/Seller hereby represents that all documentation and payments required by the Jockey Club to complete and issue such certificate have been provided. If Owner/Seller fails to provide such document to Auctioneer, Owner/Seller authorizes Auctioneer, as its option, to secure such document from the person possessing it or, alternatively, Auctioneer may refuse to sell horse or withhold proceeds due to Owner/Seller until such document has been received.
- 7.) Should any horse consigned be a twin or be required under Jockey Club rules of registration to be registered as of "dual parentage", and such fact has not been disclosed at time of sale, Owner/Seller shall accept return of such horse as unsold and will reimburse Buyer and Auctioneer for all reasonable expenses incurred for the cost, maintenance and transportation of horse from the time of sale until return to Owner/Seller.
- 8.) Owner/Seller agrees to have all consigned horses on the sales premises by the time specified by Auctioneer in its notice to Consignors regarding the sale. Any horse consigned continues in the Owner's/Seller's care, control, custody and possession for all purposes, whether on or off the premises of the auction, until it is taken by Buyer in exchange for a stable release issued by Auctioneer or as otherwise authorized by Auctioneer or Owner/Seller. Auctioneer has no responsibilities for the care or custody of any horse consigned, including the providing of veterinary or other care, but Owner/Seller hereby authorizes Auctioneer to take such action, without liability on his/her part, should Auctioneer deem such action reasonably necessary.
- 9.) Thirty (30) days after date of sale, Auctioneer will remit the net proceeds of Owner's/Seller's consignment, provided that Auctioneer shall not be required to remit the net proceeds of the sale of any horse: (1) that is the subject of a dispute or claim by the Buyer or any third party, or (2) in the event of a default by the Buyer in payment of the purchase price, until such dispute, claim of default is resolved and the sales proceeds have actually been received by Auctioneer. Sales proceeds received by the Auctioneer but not remitted shall not earn interest for Owner's/Seller's account, not shall any sales proceeds

not received by Auctioneer owing to a dispute, claim of default earn interest for Owner's/Seller's account.

- 10.) Auctioneer shall have, in its sole discretion, the right to (1) reject at any time any horse consigned, (2) determine the order of the sale, (3) assign or change stabling assignments, (4) change the date or location of the sale, and (5) make announcements at time of sale concerning any horse consigned.
- 11.) The sole liability of Auctioneer, should the sale be canceled or should Auctioneer fail to catalog or fail to catalog correctly any horse consigned, shall be the return of entry fee for such horse and Auctioneer shall not be liable for any damages, actual or consequential, arising out of any such failure.
- 12.) All information concerning sales prices, incidental and consequential sale expenses, the existence and amounts of liens, charges and other claims, and the final payment of accounts with respect to Buyers, Sellers, Owners, Breeders and Consignors shall not be deemed to be confidential in nature. All parties agree that Auctioneer may, but shall not be required to, disclose of such information without incurring liability by any party.
- 13.) Owner/Seller indemnifies Auctioneer from all claims, liabilities and expenses, including reasonable attorney fees, arising out of or relating to any breach of this contract by Owner/Seller, including, without limitation, claims relating to ownership of any horse consigned, the priority of payment of sales proceeds, and the distribution of sales proceeds as Auctioneer reasonably deems appropriate. In order to secure payment for all commissions, cost, expenses and damages, including reasonable attorney fee, provided for in this contract or for any other monies owed by Owner/Seller to Auctioneer arising or for other transactions, Owner/Seller grants to Auctioneer a security interest in the horse(s) consigned under this contract and any applicable JCC(s) or Stallion Service Certificates(s), and the products and proceeds thereof. Owner/Seller appoints Auctioneer as Owner's/Seller's attorney-in-fact to prepare, execute, and file any financial statement or other documents necessary to protect the security interest granted herein and Auctioneer shall have all rights and remedies of a secured party pursuant to this contract and the Uniform Commercial Code.
- 14.) Owner/Seller acknowledges that Auctioneer may, from time to time, waive provisions of Consignment Contracts of the Conditions of Sale but Owner/Seller agrees that such waiver shall not constitute or commit Auctioneer to make a similar waiver in the future.
- 15.) If someone other than Owner is executing this Contract, as agent for Owner, the agent shall have obtained an Agents Authorization and Owner and Agent shall be jointly and severally liable for all obligations arising here under in favor of the Auctioneer.
- 16.) Owner/Seller represents that he or she has read all provisions of this contract and agrees to be bound by them and the Conditions of Sale, which govern this sale.

Horse Owner's/Seller's Signature: _____

Owner's/Seller's Printed Name: _____ Date: _____

Auctioneer Information Only:

Date Contract Received: _____ Received by: _____

Auctioneer Sale Acceptance: [YES] [NO] Signature: _____ Date: _____

Preferred Catalog Heading Name:

(Example: Buck Creek Bloodstock, agent for Bob Builder Thoroughbreds)

Jockey Club Name: _____

Date of Birth: _____ Color: _____ [mare] [filly] [colt] [gelding]

Sire: _____ Dam: _____ Dam Sire: _____

State or Country Foaled: _____ State Program Status: _____ [Bred] [Sired]

This Mare In Foal: [Yes] [No] [N/A] Stallion: _____ LCD: _____

Mare produce previous two years: _____

Breeders Cup Eligible: [Yes] [No] Tattooed: [Yes] [No] Prospected for [racing] [breeding]

Stakes/Nominations: _____

(Eligibility MUST be maintained by the Seller through the sale date)

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