

## **2010 Prestige Alpaca Auction**

Thank you for participating in the 2010 Prestige Alpaca Auction (the "Auction"). This Consignment Agreement (the "Agreement") explains the contractual agreement between you (the "Consignor") and Silver Penn Sales (the "Consignee") regarding your use of our sales Consignment services, as well as the terms and conditions applicable to your participation in the Auction (collectively, the "Terms of Consignment"). By signing below, you agree as follows:

Consignor hereby requests that the Consignee accept the alpaca(s) listed on Exhibit "A" hereto (the "Offered Alpacas") as eligible for sale by consignment in the Auction. Consignee will notify Consignor of its acceptance of any or all the Offered Alpacas into the Auction.

Consignor's participation in the Auction is subject to payment of a non-refundable entry fee of \$1500.00 per Offered Alpaca accepted into the Auction (hereinafter the "Eligible Alpaca" or "Eligible Alpacas"). No substitutions of the Eligible Alpacas will be accepted without the written approval of Consignee.

Upon Consignee's acceptance of the Eligible Alpacas, Consignor shall remove all price listings for the Eligible Alpacas and Consignor may only advertise the Eligible Alpacas as for sale by consignment in the Auction for the duration of the Auction.

Consignor agrees that for the duration of the Auction, Consignee shall have the exclusive right to sell the Eligible Alpacas. In the event that the Eligible Alpacas are sold prior to or during the Auction by Consignor, or by any party other than the Consignee, Consignor shall pay Consignee 10% of the sales price paid for the Eligible Alpaca plus the applicable entry fee. In the event that Consignor withdraws the entry of any of the Eligible Alpacas for any reason other than a medical condition which is certified by a licensed veterinarian, Consignor agrees to pay Consignee a withdrawal fee in the amount of \$2,000.00 plus the applicable entry fee.

### **Sales Fee, Payments, Financed Sales**

Consignor shall pay Consignee a sales fee of 10%, but no less than \$600.00, of the final bid received on the Eligible Alpaca (hereinafter, the "Sales Fee"). Consignor authorizes Consignee to deduct the Sales Fee from the proceeds of the sale. Consignor's obligation to pay the Sales Fee to Consignee shall continue in the event that the Consignor buys back the Eligible Alpaca after sale.

Consignor authorizes Consignee to accept and process payment for the Eligible Alpaca upon its sale. Consignee will pay to Consignor the proceeds of each sale, less the applicable Sales Fee, promptly after payment is received and processed.

If Consignor elects to offer financing options to a buyer, Consignor must require buyer to make a deposit towards the principal purchase price in an amount equal to or greater than the Sales Fee applicable to the sale. Consignee will collect any such deposit and deduct the Sales Fee. Consignor will be responsible for the enforcement and collection of the remaining debt owed by

buyer. Consignee is not responsible for the collection of funds and does not warrant the credit worthiness of any buyer.

### **Alpaca Health & Warranty Requirements**

All Eligible Alpacas must meet the following requirements:

1. Certificate of Veterinary Inspection (CVI) dated within 25 days of the first day of the Auction;
2. Negative TB test within 30 days for Eligible Alpacas over 6 months of age;
3. Negative Brucellosis blood test within 30 days for Eligible Alpacas over 6 months of age;
4. Alpaca Registry, Inc. (ARI) name and microchip number for each Eligible Alpaca must be on the CVI. Bring a copy of the CVI for Consignee to retain; and
5. A Negative PCR test for BVDV (Bovine Viral Diarrhea Virus) is required for each Eligible Alpaca entering the Auction grounds, in addition to other health requirements. Microchips will be checked and all health papers must include the Eligible Alpaca's ARI name, microchip number and the negative PCR test results for BVDV.

Note: Blue Tongue testing is optional, but may be required for transportation out of state.

Bred Females must have their pregnancies reconfirmed 30 days prior to the sale and pregnancy confirmation (i.e., progesterone or ultrasound) must be submitted to Consignee prior to the sale. All Males must have been examined by a certified veterinarian and declared to have anatomically normal reproductive organs.

Consignors are responsible to feed and water their alpacas at all times until delivery to the buyer after sale and are required to assist the buyer with transportation arrangements. All alpacas must be out of the facility by September 12, 2010.

Consignor is required to offer the following warranties for each Eligible Alpaca:

1. **PROVEN PRODUCERS:** A proven producer is a female alpaca, which has already given birth to a cria. Proven producers will be considered to be fertile. There are no expressed or implied warranties for proven producers.
2. **CRIS OFFERED WITH DAMS:** There are no expressed or implied warranties for crias sold with their dams.
3. **BRED MAIDENS:** A Bred Maiden is a female alpaca, which has not yet had a cria and is determined to be pregnant. If the cria is not born alive, the buyer will receive a free breeding to a male alpaca owned by the Consignor. There are no other expressed or implied warranties for Bred Maidens.
4. **MAIDEN FEMALES:** Young female alpacas are guaranteed to have the ability to become pregnant by the time they reach 32 months of age and to give birth to a live cria.

5. ALL FEMALE ALPACAS sell with a live birth guarantee, which means that should the alpaca not have a live birth, the respective Consignor will rebreed for free. Such warranty ends after the first birth.
6. PROVEN MALES: A Proven Male alpaca is a male alpaca which has impregnated a female alpaca or which has been tested fertile. Proven Males will be considered to be fertile. There are no expressed or implied warranties for Proven Males.
7. YOUNG MALES: Young Males have been checked by a veterinarian and have been found to have anatomically normal reproductive organs. Young Males are warranted to have the ability to impregnate a female by the time the male is 36 months of age.
8. YOUNG FEMALES & MALES: If Consignor is notified in writing by the buyer's veterinarian of any claimed abnormality within one year of sale, Consignor will (1) replace the alpaca with an alpaca of equal quality; (2) give the buyer credit toward the purchase from Consignor of another alpaca in an amount equal to the total purchase price of the alpaca; or (3) give a refund of the purchase price paid at the auction. The foregoing is the full extent of the responsibility of the Consignor, and by way of illustration and not limitation, in no event shall the Consignor be liable for incidental or consequential damages, or for any changes or expenses of any nature incurred without Consignor's written consent.

Consignor has the option of offering additional warranties and must notify Consignee if such additional warranties are offered.

Consignor is solely responsible for all warranties and representations concerning the Eligible Alpacas for sale in the Auction. Consignee and the auctioneer have made NO warranties, express or implied, as to the health, soundness, breeding, fertility or birthing of any Eligible Alpaca and do not guaranty the sale of the Eligible Alpaca at Auction. Consignor agrees to hold harmless and indemnify Consignee and auctioneer against any and all claims arising out of the Auction and sale, including but not limited to claims for damage to property or personal injury, or regarding the health, soundness, breeding or fertility of any Eligible Alpaca.

### **Removal of Alpacas**

Consignee shall have the right to withdraw any Alpaca from the auction in the event that Consignor has not fully performed any and all of its obligations hereunder or has breached any representation, warranty or term hereunder, or Consignee otherwise determines that said Alpaca is not suitable for sale at the auction for any reason whatsoever. Consignee shall have no liability to Consignor or any third party, and Consignor hereby expressly releases Consignee from any liability hereunder, arising as a result of the removal of an Alpaca from the auction, except to the extent that Consignee acted in bad faith and with malicious intent.

### **Auction Catalog**

Consignor is responsible for furnishing Consignee with the catalog description and the Catalog photographs for the Eligible Alpaca by the designated deadline. Consignor is solely responsible for the accuracy of the content of the information submitted to Consignee for inclusion in the

catalog description and acknowledges that information provided is both accurate and true to the best of Consignor's knowledge.

### **Catalog Corrections**

In the event that an error or omission is discovered by Consignor in the catalog, whether the error or omission is the result of information supplied to Consignee or an error on Consignee's part, Consignor must immediately notify Consignee and corrections will be announced from the sale podium. In the event that Consignor discovers any changes in the Eligible Alpaca's condition, or other defects, unsoundness or abnormalities of the Eligible Alpaca of any kind, Consignee and the auctioneer are hereby authorized to announce any known defects and applicable warranties from the sales podium during the Auction.

### **ARI Certificates of Registration**

Consignor is required to have the complete and absolute title to the Eligible Alpacas and retains such title until the consummation of the sale. Every Eligible Alpaca in the Auction must be DNA typed and registered with Alpaca Registry, Inc. ("ARI"). Consignor is required to submit an original ARI certificate for each Eligible Alpaca signed by the Consignor, or a designated agent, to Consignee. The ARI certificate will be held by Consignee until payment is received and processed, and the ARI certificate will be transferred to the buyer thereafter at buyer's expense. The ARI certificates will be returned to Consignor on all financed sales.

### **Hold Harmless Indemnification Agreement**

CONSIGNEE IS NOT THE AGENT OR REPRESENTATIVE OF CONSIGNOR OR THE BUYER. CONSIGNOR WARRANTS THAT ALL SALES REPRESENT A CONTRACT SOLELY BETWEEN CONSIGNOR AND THE BUYER AND FURTHER AGREES TO HOLD HARMLESS AND INDEMNIFY CONSIGNEE, ITS MANAGER, MEMBERS, AGENTS, EMPLOYEES, AND REPRESENTATIVES AGAINST ANY AND ALL CLAIMS ARISING OUT OF THE AUCTION OR SALE OF THE ELIGIBLE ALPACA. CONSIGNEE ASSUMES NO LIABILITY FOR LOSS OR INJURY DUE TO THEFT, MYSTERIOUS DISAPPEARANCE, SICKNESS, IMPROPER HANDLING OR ACT OF GOD.

CONSIGNOR AGREES THAT IN NO EVENT SHALL CONSIGNEE BE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL, PUNITIVE, EXEMPLARY, OR SPECIAL DAMAGES OF ANY KIND ARISING AS A RESULT OF OR IN CONNECTION WITH THIS AGREEMENT.

### **Force Majeure**

The obligations of Consignee and auctioneer, or their agents, to perform under this Agreement shall be excused during any period of delay if such delay arises from any cause or causes which are reasonably beyond their control, including, but not limited to, the following: acts of God, acts or omissions of any government, or any rules, regulations or orders of any governmental

authority or any officer, department, agency or instrumentality thereof; fire, storm, flood, earthquake, insurrection, riot, invasion or strikes.

**Resolution of Dispute**

Any dispute or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled in Pittsburgh, Pennsylvania by arbitration in accordance with the Pennsylvania Uniform Arbitration Act, (73 Pa.C.S.A. §7301, et seq.). A single arbitrator shall hear this matter.

**Governing Law**

The sale and all transactions between the parties will be governed, construed and enforced in accordance with the laws of the Commonwealth of Pennsylvania. The parties hereto agree to the exclusive jurisdiction of Allegheny County, Pennsylvania.

**Incorporation of Terms and Conditions of Sale**

Consignee has read, understood and agreed to the Terms and Conditions of Sale which are attached hereto as Exhibit "B" and incorporated herein by reference.

**Entire Agreement**

The Terms of Consignment and any attachments referenced in this Agreement constitute the complete statement of the contract between the parties hereto. No waiver, consent, modification, amendment or change of the terms contained herein shall be binding unless made in writing and signed by Consignor and Consignee.

I have read, understand and agree to all of the foregoing Terms of Consignment and I further understand and agree that any violation of the Terms of Consignment may result in the withdrawal of my participation in the Auction, including the assessment of withdrawal fee, and may affect my eligibility to participate in future auctions offered by the Consignee.

**No Liability**

Consignor acknowledges and agrees that neither Park View Alpacas nor West Penn Alpacas, LLC shall have any liability to Consignor whatsoever arising out of Park View Alpacas or West Penn Alpacas, LLC participation in the auction.

Date: \_\_\_\_\_

If Consignor is an individual:

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

If Consignor is a Company:

Name of Company: \_\_\_\_\_

By (Signature): \_\_\_\_\_

Print Name: \_\_\_\_\_

Title:

EXHIBIT A  
LIST OF CONSIGNED ALPACAS

## EXHIBIT B

### TERMS AND CONDITIONS OF SALE

The following Terms and Conditions as amended by any notices or announcements by the Auctioneer during the auction, constitute the entire agreement between SILVER PENN SALES, LLC (the "Host"), sellers of alpaca's at the auction, (each a "Seller" and collectively the "Sellers"), and bidders and buyers at the auction (each a "Buyer" and collectively the "Buyers"). The "Auctioneer" shall be the party or parties identified by the Host, on or before the auction, as the auctioneer for the respective auction event.

#### TERMS

**PAYMENT:** Terms are cash payment in full, or with terms approved by the Seller. Payment must be made to the Cashier immediately following purchase; personal checks are to be payable to SILVER PENN SALES, LLC. Seller reserves the right to require a certified check as settlement before releasing the animal. Registration papers for a financed alpaca(s) will not be transferred into the Buyer's name until the financed alpaca(s) is paid in full. All crias born from financed females will be registered in the Seller's name until the alpaca is paid in full. All signed certificates for services performed from financed males will be signed by the Seller as owner at the time of the breeding until alpaca is paid in full. Any and all monies generated from the financed alpaca(s) including but not limited to the sale of offspring, breeding service, insurance proceeds and the like will go against the unpaid balance until the alpaca is paid in full.

**BIDDING:** The highest bidder recognized by the Auctioneer shall be the Buyer. Bids tendered after the fall of the hammer are not valid grounds for dispute. If any dispute arises between two or more bidders or in the event of doubt on the Auctioneer's part as to the validity of any bid, the Auctioneer will have the final discretion either to determine the successful Buyer, or to re-offer and resell the alpaca in question. The Auctioneer's determination is conclusive and not subject to challenge. The Auctioneer reserves the right to reject any bid. The Auctioneer's determination of the successful Buyer hereunder shall be final and conclusive and Buyer waives any claims whatsoever of any nature against the Auctioneer, the Host and the Seller, based on the Auctioneer's final determination hereunder.

**RISK OF LOSS:** All sales are final upon the fall of the hammer, and an acknowledgement of the Purchase shall be signed by each Buyer following their purchase. All risk of loss, including but not limited to death, injury, or any veterinarian costs for the alpaca becomes the Buyer's risk upon the fall of the hammer. The Host assumes no liability for loss or injury due to theft, mysterious disappearance, sickness, improper handling or acts of God, and Buyer specifically waives any and all claims it may have against the Host arising out of any of the above aforementioned occurrences.

**REGISTRATION PAPERS:** All registration papers will be delivered when the alpaca(s) are paid for in full. The Buyer is responsible for all transfer fees.

**DEFAULT OF PURCHASE:** If any person shall purchase an alpaca and fail to pay for it in the manner described above, the Seller shall have, in addition to all other legal rights, the right to resell the alpaca, or at Seller's option, bring an action for specific performance, in which event the defaulting Buyer agrees to pay all costs of such suit, together with all reasonable attorney's fees and costs. In the event of a resale, the defaulting Buyer agrees to pay all costs of resale, plus any deficiency between the original purchase price and the total purchase price upon resale.

**TRANSPORTATION:** The Buyer, at Buyer's own expense, shall transport the purchased alpaca from the auction. Any arrangements or disposition of the alpaca after the purchase other than immediate removal must be made directly between Buyer and Seller.

**CATALOG:** Every effort has been made to assure correctness of the auction catalog. However, neither the Host nor the Auctioneer are responsible for any errors or omissions and they assume no liability on their part for statements, either written or verbal on any alpacas sold. To the extent there are any representations and warranties regarding any animal, such representations and warranties shall be deemed to be only made by the Seller of the animal. The respective Seller is the sole warrantor of all such information. Any corrections made at the time of the sale from the Auctioneer's podium shall supersede the catalog and any and all claims made prior thereto.

**TAPE:** A video and/or audio tape recording will be made of all auctioned sales which shall be used to settle any questions regarding statements made about animals while they are in the auction ring.

**CHANGE OF VENUE:** The Sellers and Buyers agree to hold the Host harmless from any and all damages in the event of a change in location, time or date or cancellation or similar modification of the sale, arising from any cause whatsoever.

**NO LIABILITY:** Any person attending the sale, whether as a Buyer, Seller, observer, or the agent, employee or assign of any person, does so at their own risk and no liability, duties or obligations, and/or responsibilities of any kind or nature shall be imposed upon any of the Host, the Auctioneer, or any of their owners, employees, or assigns, for any accident, injury, mishap, theft, damage, and/or other harm regardless of cause. Buyer acknowledges and agrees that in no event shall the Host, the Auctioneer or any Seller be liable for any incidental, consequential, punitive, exemplary, or special damages of any kind arising as a result of or in connection with this Agreement in any way.

**DISCLAIMER OF LIABILITY:** NEITHER THE HOST, THE AUCTIONEER, NOR ANY AGENTS THEREOF, MAKE ANY REPRESENTATIONS OR WARRANTIES WHATSOEVER WITH RESPECT TO THE SUBJECT MATTER OF THIS AGREEMENT, INCLUDING WITHOUT LIMITATION, THE SALE OF ANIMALS OR THE SERVICES PROVIDED HEREUNDER. ANY REPRESENTATIONS OR WARRANTIES IN CONNECTION WITH ANY ANIMALS ARE MADE SOLELY BY THE RESPECTIVE SELLER ONLY. UNLESS OTHERWISE SPECIFICALLY AGREED TO ELSEWHERE IN WRITING BY THE SELLER, ALL SALES OF ANIMALS ARE ON AN "AS-IS BASIS", AND THE HOST, THE AUCTIONEER, AND THE SELLERS DISCLAIM ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, WITH RESPECT TO THE ALPACAS AND THE SERVICE PROVIDED FOR

HEREUNDER, INCLUDING WITHOUT LIMITATION ALL IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE.

**FORCE MAJEURE:** The obligations of any of the Host, the Auctioneer, the Seller, or their agents, to perform under this Agreement shall be excused during any period of delay if such delay arises from any cause or causes which are reasonably beyond their control, including, but not limited to, the following: acts of God, acts or omissions of any government, or any rules, regulations or orders of any governmental authority or any officer, department, agency or instrumentality thereof; fire, storm, flood, earthquake, insurrection, riot, invasion or strikes.

**HOLD HARMLESS INDEMNIFICATION AGREEMENT:**

The Host is not acting as an agent or a representative of the Sellers or the Buyers. Both the Sellers and the Buyers warrant that all sales represent a contract SOLELY between the Seller and the Buyer and further agree to hold harmless and indemnify the Host against any and all claims made for any reason at any time with respect to this sale. Sellers and Buyers warrant that the Seller and the Seller alone is responsible for all warranties and representations concerning its alpaca(s) in the sale and that the Host and the Auctioneer have made NO representations or warranties or any guarantees of any type whatsoever regarding the services provided for hereunder or the alpacas, including without limitation in regards to the soundness, fertility or birthing of any alpaca in the sale. Both the Sellers and Buyers agree to hold harmless and indemnify the Host and Auctioneer from any claims made regarding the health or soundness of any alpaca in the sale.

**RESOLUTION OF DISPUTE:** Any dispute or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled in Pittsburgh, Pennsylvania by arbitration in accordance with the Pennsylvania Uniform Arbitration Act, (73 Pa.C.S.A. §7301, et seq.). A single arbitrator shall hear this matter.

**GOVERNING LAW:** This Agreement, and the sale and all transactions between the Buyers and the Sellers will be governed, construed and enforced in accordance with, the laws of the Commonwealth of Pennsylvania. The parties hereto agree to the exclusive jurisdiction of Allegheny County, Pennsylvania.

**BLOOD TYPING & MICRO-CHIPPING:** Seller shall warrant that all alpacas made available for sale at the auction shall be ARI Registered, Blood Typed and Micro-chipped.

**AUTHORIZED AGENTS:** Persons acting as agents must be indicated as such when signing the Acknowledgement of Purchase, and the Host and Seller may rely on such agency representation and Buyer shall be bound by the acts of its agent.

**WITHDRAWAL RIGHTS:** Sellers reserve the right to withdraw any alpaca from the sale prior to the fall of the hammer without liability to Buyer.

**IMPORTANT NOTICES**

**INSPECTION OF ALPACAS:** Buyers are urged to examine the alpacas carefully. Unless otherwise specifically agreed to in writing by the Seller, all sales shall be "AS-IS", and failure to inspect the alpacas will not be grounds for rescission of the purchase.

**ABSENTEE BIDS:** Absentee bidding is available to Buyers subject to these Terms and Conditions of Sale and is provided as a convenience for Buyers who are unable to attend the auction. Bids may be left with an auction representative who will try to purchase the alpaca or alpacas of Buyer's choice for the lowest price possible. Although every reasonable effort will be made to execute these bids, the Host will not be responsible for any errors or failure to execute bids.

**TELEPHONE BIDDING OR INTERNET BIDDING:** Telephone and Internet bids are accepted subject to the Terms and Conditions of Sale. Although every reasonable effort will be made to execute these bids, neither the Host nor the auctioneer will be responsible for any error or failure to execute bids.

Anticipated breeding dates and due dates will be announced at the sale; these dates are for your information only and are not binding upon the Host, the Auctioneer or the Sellers.

**NO LIABILITY:** Buyers acknowledge and agree that neither Park View Alpacas nor West Penn Alpacas, LLC shall have any liability to Buyer whatsoever, arising out of any cause whatsoever, except solely as it may arise out of its capacity as Seller.

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BE:255469-4 023522-131381