



## CONSIGNMENT AGREEMENT

This Consignment Agreement (this “*Agreement*”) is made as of \_\_\_\_\_, 2007 (the “*Effective Date*”) by and between Gypsy Vanner Import Professionals, L.P., a Texas limited partnership (“*Gypsy*”) and \_\_\_\_\_ (“*Consignor*”).

**WHEREAS**, Consignor desires to engage Gypsy to board, market and sell the Horse (as defined below) on a consignment basis pursuant to the terms and conditions contained herein.

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows.

1. **Consignment.** Consignor hereby consigns to Gypsy the Horse identified in the attached Exhibit A (the “*Horse*”) which Gypsy, as Consignor’s exclusive agent, will offer for sale, unless otherwise agreed, subject to the provisions set forth below and to Gypsy’s Bill of Sale and Purchase Agreement in effect at the time. In the event of a conflict between the Bill of Sale and Purchase Agreement on the one hand, and this Agreement on the other hand, the terms of this Agreement shall control.

### 2. Fees and Payment.

a. Consignor Costs and Expenses. Consignor hereby agrees to pay the following:

i. all costs and expenses incurred in transporting the Horse to or from Gypsy’s facilities at Magnolia Ranch in Katy, Texas or Gypsy MVP Ranch in Bellville, Texas (either, the “*Ranch*”);

ii. all veterinary costs and expenses (“*Vet Costs*”) incurred by Gypsy in the routine care of the Horse, as provided in Section 6(c);

iii. a non-refundable boarding fee (the “*Boarding Fee*”) in the amount of \$\_\_\_\_\_ per day.

b. Payment. Payment for Vet Costs will be due and payable in full thirty (30) days from the invoice date. Payment for one month of Boarding Fees shall be due upon the execution of this Agreement. Boarding Fees thereafter shall be due and payable one month in advance. In the event that the Horse leaves the Ranch before the end of a month’s time, Consignor shall receive a refund for Boarding Fees corresponding to days that the Horse was not at the Ranch.

c. Commission. For its services, Gypsy will be entitled to a commission from Consignor (the “*Commission*”) as follows:

i. In the event that the Horse is sold for the Minimum Sales Price (as defined below) or for an amount below the Minimum Sales Price, Gypsy will receive and retain from the proceeds of the sale of the Horse an amount equal to ten percent (10%) of the gross price (the “*Purchase Price*”) paid by the buyer of the Horse (the “*Buyer*”).

ii. In the event that the Horse is sold for an amount above the Minimum Sales Price, Gypsy will receive and retain from the proceeds of the sale of the Horse an amount equal to 10% of the difference between the Purchase Price and the Minimum Sales Price.

The Commission is in addition to any Consignor costs and expenses set forth in Section 2(a).

d. Settlement of Account. Provided that Gypsy has received payment in full from the Buyer, and subject to the next sentence of this Section 2(d), within thirty (30) days after the sale (the “*Settlement Date*”), Gypsy shall pay to Consignor the net proceeds

(the final Purchase Price less the Commission payable to Gypsy) received and collected from the sale of the Horse. Gypsy shall not make such payment if Gypsy shall have received notice of the Buyer's intention to rescind the sale or of any other bona fide claim relating to the Horse or its sale prior to the Settlement Date.

e. **Excluded Buyers.** Consignor may deliver to Gypsy, upon execution of this Agreement, a list of persons that have expressed interest in purchasing the Horse to Consignor prior to the execution of this Agreement (the "*Excluded Buyers*"). In the event that Gypsy sells the Horse to an Excluded Buyer within thirty (30) days of the execution of this Agreement, Gypsy shall not be entitled to a Commission on such sale.

### 3. Sale of Horse to Buyer.

a. **Minimum Sale Price.** The Horse will be sold subject to the minimum sale price (the "*Minimum Sales Price*") of \$\_\_\_\_\_. Unless the Minimum Sale Price is mutually agreed upon and confirmed by Consignor herein or in a writing before the sale, the Minimum Sale Price will be determined by Gypsy in its absolute discretion. The Minimum Sales Price may be amended in a writing signed by both parties hereto.

b. **Disclaimer.** Any written or oral appraisal, estimate or other statement of Gypsy's or its representatives with respect to the estimated or expected selling price of any Horse is a statement of opinion only and shall not be relied upon by Consignor or any third party as a prediction or guarantee of the actual Purchase Price. In no event shall Gypsy be liable for the failure of any Horse to be sold at such estimated or expected price.

c. **Non-Payment by Buyer.** Gypsy shall have no obligation to enforce payment by the Buyer. However, in the event of non-payment by the Buyer, Gypsy, in its sole discretion, as Consignor's agent or on Gypsy's own behalf, may cancel the sale, enforce payment by the Buyer or take any other actions permitted by law. Gypsy shall not, under any circumstances, be liable for any consequential damages to Consignor as a result of non-payment by the Buyer.

d. **Rescission of Sale.** Gypsy, as Consignor's agent, is authorized to accept the return and rescind the sale of any Horse at any time if Gypsy, in its sole judgment, determines that the offering for sale of any Horse has subjected or may subject Gypsy to any liability, including liability under warranty of authenticity or title. In such event, Gypsy is further authorized to refund or credit to the Buyer the Purchase Price of such returned Horse. If Gypsy has already remitted to Consignor any proceeds of the rescinded sale, Consignor forthwith shall pay Gypsy upon request an amount equal to the remitted proceeds.

4. **Condition of Horse.** Consignor agrees to provide Gypsy with all information that Gypsy may request regarding the Horse's ownership, description, pedigree, parentage verification, produce, performance, health or conformation. Upon execution of this Agreement, Consignor shall deliver the following documents to Gypsy:

- a. if applicable, the certificate of registration;
- b. if applicable, all transfer reports and other items required to transfer registration of the Horse to a Buyer;
- c. if applicable, a breeder's certificate for bred mares;
- d. a certificate of health from a qualified veterinarian or, in the alternative, evidence that the Horse has undergone a basic soundness check administered by a veterinarian within fifteen (15) days of the execution of this Agreement;
- e. a negative Coggins test dated no earlier than six (6) months prior to the date of this Agreement.

5. **Risk of Loss; Insurance.** Gypsy shall not be liable for any loss, damage, injury, death or illness of the Horse. The risk of any loss associated with the Horse and all liability occurring in connection therewith shall be the sole responsibility of Consignor unless and until the Horse is sold to a Buyer. It is Consignor's choice and responsibility to obtain insurance coverage for the Horse.

6. **Discretionary Matters; Limitation of Liability.**

a. Sale. Gypsy shall have complete discretion as to the place and date of sale and the manner in which such sale is conducted, including the Bill of Sale and Purchase Agreement then in effect.

b. Marketing. Gypsy shall have complete discretion as to the illustration, if any, and the description of the Horse in Gypsy marketing and advertising materials. Gypsy shall not be liable for any errors or omissions in marketing, advertising or other descriptions of the Horse. Gypsy shall retain the exclusive copyright to all marketing or advertising descriptions of the Horse created by Gypsy.

c. Veterinary Care. Gypsy shall have complete discretion as to the necessity of veterinary examinations and care for the Horse, including, but not limited to, farrier and worming treatment. Gypsy makes no representations or warranties to Consignor with respect to the Horse, its health, registration or otherwise.

**7. Consignor's Representations and Warranties.** Consignor represents and warrants the following: (a) Consignor has the right and title to consign the Horse for sale; (b) the Horse is, and until the completion of sale by Gypsy will be, free and clear of all liens, claims and encumbrances of others or restrictions on Gypsy's right to offer and sell the Horse; (c) upon sale, good and marketable title and right to possession will pass to the Buyer free of any such liens, claims, encumbrances or restrictions; (d) Consignor has disclosed to Gypsy all information in Consignor's possession relating to the health, parentage, age, breed, disposition and other such attributes of the Horse; (e) the Horse is not "confiscated property" within the meaning of any United States federal or state laws; (f) Consignor's consignment to and authorization of Gypsy to sell the Horse is in full compliance with all United States federal and state laws; (g) the exportation, if any, of the Horse from any foreign country has been in full conformity with the laws of such country and the importation of the Horse into the United States has been or will be in full conformity with the laws of the United States; and (h) there are not, and until the completion of the sale by Gypsy, there will not be, any restrictions on Gypsy's right to photograph, reproduce photographs of or exhibit the Horse.

a. Consignor agrees that the representations and warranties shall survive the completion of the

transactions contemplated hereby. Consignor agrees to notify Gypsy promptly in writing of any events or circumstances that may cause the foregoing representations and warranties to be inaccurate or breached in any way. If Consignor is acting as an agent for a principal, Consignor and principal, jointly and severally, assume all of the obligations under this Agreement.

**8. Term and Termination.** Either party may terminate this Agreement at any time by giving the other party written notice of termination ("*Termination Notice*"). Termination shall be effective upon the earlier to occur of the following: (a) the payment of the Purchase Price for the Horse by a Buyer; (b) sixty (60) days after giving of Termination Notice; or (c) such time as the Termination Notice has been given and the Horse has been transported to Consignor's location. Sections 10, 11 and 12 shall survive termination of this Agreement.

**9. Exclusivity.** During the Term of this Agreement, Consignor hereby agrees to use Gypsy as its exclusive agent for sale of the Horse. Consignor shall not engage any third party to sell the Horse or advertise the Horse for sale with any third party.

**10. Indemnification.** Consignor shall defend, indemnify and hold harmless Gypsy from and against any and all losses, damages, liabilities and claims, and all fees, costs and expenses of any kind related thereto (including, without limitation, reasonable attorneys' fees), arising out of, based upon or resulting from (i) any act by or omission of Consignor or its agents (other than Gypsy) or representatives relating to or affecting the Horse, (ii) any inaccuracy or alleged inaccuracy, asserted by Gypsy or any third party in a court action, of any representation or warranty made by Consignor pursuant to this Agreement; or (iii) questions of title to the Horse and disputes concerning identity, health, soundness, engagements, pregnancy status and or produce record of the Horse.

**11. Arbitration.** Except with respect to any matters set forth herein with respect to which the parties hereto may pursue injunctive relief in any court of competent jurisdiction, each party hereto agrees that arbitration, as conducted by and pursuant to the procedures set forth by JAMS (as currently in effect or such later version as may then be in effect) shall be the sole and exclusive method for resolving any claim,

controversy or dispute arising out of or relating to the rights and obligations of the parties under this Agreement, whether such claim arose or the facts on which such claim is based occurred prior to or after the execution and delivery of this Agreement. Nothing in this Section shall prohibit any party hereto from instituting litigation to enforce any final judgment, award or determination of the arbitration. Each party hereto further agrees that each other party hereto may initiate litigation in any court of competent jurisdiction to execute any judicial judgment enforcing or not enforcing any award, judgment or determination of the arbitration.

**12. General Provisions**

a. Entire Agreement, Binding Effect. This Agreement contains the entire Agreement and understanding between the parties and it supersedes all prior or agreements, understandings, and representations, written or oral, relating to the subject matter of this Agreement. This Agreement shall be binding upon the parties and their representatives, successors, and assigns.

b. Waiver of Jury Trial. Each party hereto hereby waives its rights to a jury trial of any claim or cause of action based upon or arising out of this Agreement. The scope of this waiver is intended to be all-encompassing of any and all disputes that may be filed in any court and that relate to the subject matter of this transaction, including, without limitation, contract claims, tort claims, breach of duty claims, and all other common law and statutory claims.

c. Governing Law; Venue. This Agreement shall be construed in accordance with and governed by the laws of the State of Texas, without giving effect to the choice of law provisions thereof. Buyer agrees that any lawsuit or other legal proceeding between the parties shall be brought only in the Civil District Courts of Harris County, Texas or the United States District Court for the Southern District of Texas, Houston Division. The parties hereby consent to the personal and exclusive jurisdiction and venue of said court.

d. Costs of Dispute. In the event a dispute arises under this Agreement, the prevailing party will be entitled to all reasonable costs and expenses incurred by it in connection with such dispute (including, without limitation, all reasonable

attorney's fees and costs incurred before and at any trial, arbitration or other proceeding), as well as all other relief granted in any suit or other proceeding.

e. No Rights in Third Parties. Unless otherwise expressly stated herein, this Agreement shall not create any rights in or inure to the benefit of any third parties.

f. Notices. Any notice required or permitted to be given under this Agreement shall be in writing and shall either be personally delivered or sent postage prepaid, by certified mail, regular mail, personal delivery, courier service, facsimile transmission or email, to the address of the parties indicated below or to such other address as either party shall designate by notice to the other party. Such notice shall be effective when actually received or two days after deposit in the U.S. Postal Service, whichever occurs first.

**Gypsy:**  
Gypsy Vanner Import Professionals, L.P.  
1834 FM 1463  
Katy, Texas 77494

Phone: \_\_\_\_\_  
Fax: \_\_\_\_\_  
Email: \_\_\_\_\_

**Consignor:**  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Phone: \_\_\_\_\_  
Fax: \_\_\_\_\_  
Email: \_\_\_\_\_

g. Taxes. Each party shall be responsible for the payment of any and all federal, state, or local taxes which may arise or be imposed as the result of its performance under this Agreement or as the result of the receipt of any compensation or other funds under this Agreement, if any.

h. Waiver. No failure by either party to insist upon the strict performance of any term hereof or to exercise any right, power, or remedy following a breach of this Agreement or any term or condition hereof, shall constitute a waiver of any such term or of any such breach. No waiver of any particular breach shall affect or alter this Agreement, which shall

continue in full force and effect with respect to any other then existing or subsequent breach.

i. Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be in violation of any applicable law or otherwise invalid or unenforceable, such provision will, to such extent as it is determined to be illegal, invalid or unenforceable under such law be deemed null and void, but this Agreement will otherwise remain in full force and effect.

j. Multiple Counterparts. This Agreement may be executed in a number of identical counterparts and each of such shall be deemed for all purposes to be an original, all of which shall constitute, collectively, this Agreement.

k. Section Headings. The section headings designations used in this Agreement are for convenience of reference only, and shall not in any way be construed to modify or restrict any of the terms or provisions hereof.

IN WITNESS WHEREOF, this Agreement has been executed the day and year first above written.

**GYPSY:**

**CONSIGNOR:**

Gypsy Vanner Import Professionals, L.P.

\_\_\_\_\_

By: Magnolia Ranch, LP, *its general partner*

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

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

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

Title: \_\_\_\_\_

Title: \_\_\_\_\_

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

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

Please fax this contract to: 281-693-3022

EXHIBIT A  
Description of Horse

The Horse listed below has been consigned to Gypsy under the terms and conditions of the Agreement.

Name or Registered Name: \_\_\_\_\_

Registration # (if applicable): \_\_\_\_\_

Registered with (if applicable): \_\_\_\_\_

Barn Name: \_\_\_\_\_

Age: \_\_\_\_\_

Sex: \_\_\_\_\_

Breed: \_\_\_\_\_

Height (in hands): \_\_\_\_\_

Color and Markings: \_\_\_\_\_

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

Sire Name & Registration #  
(if applicable): \_\_\_\_\_

Dam Name & Registration #:  
(if applicable): \_\_\_\_\_

Temperament on a Scale of  
1 to 10 with 10 being the worst \_\_\_\_\_

Defects? (cryptoids, cribbers,  
lameness, navicular, laminitis,  
parrot mouth, reproductive problems  
etc.) \_\_\_\_\_

Has the Horse undergone DNA  
testing? If yes, is the DNA test  
on file with the Gypsy Vanner  
Horse Society? \_\_\_\_\_

Breeding History (if applicable) \_\_\_\_\_

If a Mare, is the Horse in foal?       Yes       No

Does the Horse Ride or Drive  
(On a scale of 1 to 10 with  
1 being beginning to,  
5 being good and  
10 being a show winner)

\_\_\_\_\_

-Does the Horse need to be  
drugged to complete?

Yes       No

Does the Horse Load Clip and  
Farrier? (On a scale of 1 to 5  
with 1 being poor with problems  
and 5 perfect)

\_\_\_\_\_

-Does the Horse need to be  
drugged to complete?

Yes       No

Verifiable Genetic Heritage?  
(if yes, please provide description  
in the space provided below)

Yes       No

Copy of registration papers attached?

Yes       No

Brief Description of the Disposition of the Horse:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Brief General Description of Horse:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_