

THE THOROUGHBRED RETIREMENT FOUNDATION'S  
FOSTER CARE AGREEMENT

WHEREAS, \_\_\_\_\_ Farm, located at \_\_\_\_\_ (the "Farm") has offered to board one or more of the horses owned by the Thoroughbred Retirement Foundation, Inc., a New York not-for profit corporation with Federal non-profit status under IRC 501(c)(3) (the "TRF") upon the terms and conditions set forth in this Agreement; and

WHEREAS, the TRF wishes to board one or more TRF horses at and with the Farm upon the terms and conditions set forth in this Agreement; and

WHEREAS, it is in the interest of both parties that there should be an understanding in writing of their respective rights and obligations as to the boarding of the TRF horse or horses which are the subject of this Agreement.

IT IS THEREFORE AGREED AS FOLLOWS:

1. The TRF shall board the horse or horses as named and identified on Exhibit A, attached hereto (the "TRF Horse" or collectively as the "TRF Horses") with the Farm. The TRF shall, at TRF's sole expense, be responsible for transporting and delivering the TRF Horses to and from the Farm.

2. In consideration for the care, feeding and supervision of the TRF Horses, the TRF shall provide a written acknowledgment of the expenses incurred on behalf of the TRF, provided such expenses are reasonable and provided further that the Farm provides to the TRF records and receipts evidencing the expenses with its request for the written acknowledgment. The TRF shall also be responsible for the reasonable cost of the services of a farrier and any necessary medication or veterinary services. The Farm shall be responsible for contacting the appropriate veterinarian and farrier when services are needed and to follow suggested treatment of

veterinarian or farrier. The Farm shall ensure that all farrier services and veterinary services are performed in a reasonable manner. The Farm must contact the TRF for any non-routine services for approval before any non-routine services are performed. The Farm may submit to the TRF, and the TRF will then reimburse the Farm, reasonable farrier and veterinary expenses incurred by the Farm as documented by receipts for the care of the TRF Horses.

3. (a) The TRF represents that at the time of delivery of the TRF Horse(s), the condition of the TRF Horse(s) shall be as described by the Henneke Scoring System between Moderately Thin (4) and Fleshy (7). The undersigned agrees that the TRF Horse(s) entrusted to the Farm will receive proper care. Proper care is defined as maintaining the TRF Horse(s) on pasture or hay sufficient for every TRF Horse(s) to maintain weight and condition as described by the Henneke Scoring System between Moderately Thin (4) and Fleshy (7). Attached hereto as Exhibit B is a fact sheet describing and illustrating the Henneke equine body condition scoring system. The Farm shall visually inspect the TRF Horses a minimum of twice daily and pay appropriate attention to grooming to ensure that the TRF Horses' skin and hair are healthy. The Farm shall remove any TRF Horses from the herd that are not thriving.

(b) The parties agree to abide by the following non-emergency euthanasia policy: If a Farm concludes that a TRF Horse is (i) no longer physically secure in a herd environment; (ii) in need of chronic medication to maintain a reasonable comfort level; (iii) unable to carry reasonable bodyweight or condition; or (iv) otherwise experiencing a poor quality of life, then such horse may become a candidate for consideration of humane euthanasia upon the recommendation of the Farm. Upon such recommendation, the Farm shall be required to obtain the consent of the TRF before non-emergency euthanasia is utilized. The TRF Death Certificate must be completed within 24 hours of a death and delivered to the TRF.

4. The Farm acknowledges that the TRF Horses are former race horses having recently finished their racing careers. The TRF makes no representation as to the behavior or temperament of the TRF Horses. The Farm acknowledges that the Farm has been notified and hereby assumes all of the risks inherent in activities dealing with the TRF Horses, including, without limitation: (i) the propensity of a horse to behave in dangerous ways, which may result in injury or death to persons or damage to property; and (ii) the inability to predict a horse's reaction to its environment, including, without limitation, sounds, movements, objects, persons or animals. The Farm agrees to promptly advise the TRF of any incident or occurrence which might reasonably be expected to give rise to a claim related to a TRF Horse being boarded with the Farm under this Agreement.

5. (a) The Farm shall indemnify, defend and hold the TRF, its directors, officers, volunteers, employees, agents, successors and assigns harmless from and against any and all claims, liabilities, losses, damages and costs, foreseen or unforeseen, including, without limitation, counsel fees which the TRF may incur directly or indirectly, wholly or partly, by reason of, or relating to any type of claim, cause of action, injury or event relating to or surrounding the TRF Horses.

(b) Except for the TRF's obligations under Section 2 of this Agreement, the Farm further releases the TRF, its directors, officers, volunteers, employees, agents, successors, and assigns from any claims, and agrees to assume all risk and waives all rights, including the right to sue or bring an action, which the Farm may have or hereafter have, against the TRF, its directors, officers, volunteers, employees, agents, successors and assigns, for death, personal injury or property damage which is in any way associated with or related to the TRF Horses.

The provisions of this section shall survive the termination of this Agreement.

6. The Farm shall not permit any TRF horse boarded under this Agreement to be used for riding by anyone, nor shall the Farm permit the TRF Horses boarded under this Agreement to be handled by any third parties, including, without limitation, the Farm's invitees and licensees, without the express prior written consent of the TRF, which consent the TRF may withhold, in its sole discretion.

7. The Farm hereby represents that it is covered by a policy of liability insurance to board horses on the Farm's premises with commercially reasonable coverage and the Farm further represents that the Farm shall maintain the aforementioned insurance during the term of this Agreement. The Farm shall obtain and provide to the TRF a certificate of insurance from the Farm's insurance carrier, naming the TRF as an additional insured.

8. The Farm shall permit a duly authorized representative or representatives of the TRF to inspect the TRF Horses being boarded with the Farm and such inspections shall be at the location at which the TRF Horses are boarded and shall include permission to inspect the stable facilities and grounds.

9. The TRF shall have the right to resume the care, custody and control of any horse or all of the TRF Horses in the care of the Farm at any time.

10. The Farm may terminate this Agreement as to any or all of the TRF Horses entrusted to the Farm upon sixty (60) days prior written notice to the TRF.

11. The Farm shall obtain its own independent tax advice as to any deduction associated with the written acknowledgment referred to in Paragraph 2 above, as the TRF does not provide tax advice. The Farm waives and releases any and all claims and causes of action which the Farm may have against the TRF for any damage, costs or expenses that the Farm may incur by reason of the IRS disputing or disallowing the deduction.

12. The individual signing on behalf of the Farm hereby represents that said individual has the authority to sign on behalf of and bind the Farm

13. This Agreement (including any documents referred to herein) constitutes the entire Agreement among the parties with respect to its subject matter and supersedes all other prior Agreements and understandings, both written and/or oral, between the parties. All of the terms of this Agreement shall be binding upon the respective successors, heirs, legal representatives and assigns of the parties hereto and shall inure to the benefit of and be enforceable by the parties and their respective heirs, successors, legal representatives and assigns. This Agreement shall not be amended or modified without the written consent of the parties. This Agreement may not be assigned by the Farm without the prior written consent of the TRF, which the TRF may withhold in its sole discretion.

14. This Agreement and any and all other documents or instruments referred to herein shall be governed by and construed in accordance with the laws of the State of Kentucky, without reference to its choice of law rules.

15. In the event that one or more of the provisions of this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement, and this Agreement shall be construed as if such invalid or illegal or unenforceable provision had never been contained herein.

16. This Agreement and any and all other documents referred to herein may be executed with counterparts signatures all of which taken together shall constitute an original without the necessity of all parties signing each document. This Agreement may also be executed

by signatures to facsimile transmittal documents or e-mail signature pages in lieu of original or machine generated or copied documents.

THOROUGHBRED RETIREMENT FOUNDATION, INC.

Dated: \_\_\_\_\_

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

Name:

Authorized Agent for the TRF

P.O. Box 13218

Lexington, KY 40583

THE FARM

Dated: \_\_\_\_\_

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

Name:

Authorized representative of The Farm

\_\_\_\_\_  
(Insert Address)

Telephone No.: \_\_\_\_\_

**Exhibit A**