

## Chapter 10

### Working with Contracts

The right breeding contract between a jack sire mare owner can prevent a number of foreseeable problems. Both jackstock and mare owners are sometimes surprised to learn - especially after things go wrong - that their breeding contracts have failed to address critical and foreseeable problems.

If you are breeding a mare this season, as you go through the process of selecting a jack sire, here are some elements of breeding contracts in the equine industry to consider.

#### **Contracting With the Right Person**

Mare owners should make sure that the one with whom they are contracting has authority. Never accept a contract signed by an employee or agent unless you have first confirmed that the party presenting the contract and signing it has authority to do so. If the jack sire is managed by someone other than its owner, the contract can specify that the manager has authority to transact business on behalf of the owner and, of course, execute contracts. And unless a farm name is a true legal entity (such as a corporation or limited liability company), it should not be named as a party to the contract. This is important and often overlooked, the farm name must be a true legal entity (corporation or llc) if it is to be named as a party to the contract.

The contract can include a clause stating that the party signing the contract on behalf of an entity (such as a partnership, corporation, or LLC) is duly authorized to do so and to bind the entity to the terms of the contract.

This issue has actually come up in litigation over the years.

#### **Jack Sire Availability**

The jack sire's availability during the breeding months is critical: Some jack sires maintain showing schedules while advertised to the public for breeding. For breedings requiring timely access to the jack sire - breeding with fresh semen via live cover or artificial insemination, or cooled shipped semen (as opposed to frozen semen that can be stored for shipment) - the contract can specify a range of dates or months in which the jack sire is available.

#### **Disclosure of Diseases and Hereditary Conditions**

The health of the jack sire is vitally important as it can directly affect the health of the mare, her offspring, and even the mare owner's farm.

The breeding contract provides an excellent opportunity for the jack sire owner or manager to certify that the jack sire is in good health and whether or not, for example, he is a carrier of diseases. Mare owners might want assurances within the breeding contract that the jack sire has