

REHABILITATION, CONDITIONING AND AGISTMENT AGREEMENT

The Owner as registered in the Stud Book and with full power and authority from each (if any) other Owner to enter into this Agreement HEREBY AGREES to send the Horse to Gundy Park Equine Rehabilitation and Fitness Centre and the Stud HEREBY AGREES to accept the Horse for provision of the Services at Gundy Park **UPON THE FOLLOWING TERMS:**

WHEREAS

1. Definitions

"Act" means the Personal Property Securities Act 2009 (Cth) as amended and in force from time to time.

"Claims" means all loss, injury, damages, economic loss, consequential loss, demands, proceedings, debts, judgments, legal costs arising from or out of injury, sickness, disease, quarantine restriction, embargo or death whilst on Gundy Park or whilst moving to or from Gundy Park, or whilst a Horse is at or moving to or from a sales venue, together with all claims for personal injury or for damage to property whilst on Gundy Park or inspecting a Horse elsewhere whether arising at common law, in equity or by statute.

"Horse" means all of the Owner's horses on Gundy Park from time to time including without limitation, those set out in the Schedule.

"Owner" means each (if any) other owner, part owner, lessee, partner, syndicate member, syndicate manager, company, corporate trustee or other person who is legally recognised as an owner of a Horse, jointly and severally.

"PPSR" means the Personal Property Securities Register

"Schedule" means the schedule to this Agreement.

"Services" means agistment and animal husbandry including breeding work, foaling down, yearling preparation, quarantine and transport

"Stud" means Gundy Park Equine Rehabilitation and Fitness Centre ABN 70 277 447 620 and includes its servants, agents and contractors.

"Gundy Park Equine Rehabilitation and Fitness Centre" means the thoroughbred stud properties owned, operated or used by the Stud from time to time.

2. Owner

2.1. This agreement will not be assigned or transferred by the Owner.

2.2. If this agreement is signed by one of several owners or by an agent or representative for the Owner, or if the Owner is a company, the undersigned:

a. warrants that:

i. he/she/it will perform all obligations of the Owner under this agreement;

ii. he/she/it has the authority of all the Owners to enter into the agreement;

iii. he/she/it will fully disclose to the Owner the terms of this agreement and any commission paid or payable by the Stud to the undersigned in connection with this or any other relevant dealing; and

b. guarantees the full and prompt payment of all the monies owed in respect to the Horse as well as the full and prompt performance of obligations by the Owner;

2.3. The warranty will remain in effect regardless of whether the agent or representative retains his or her status after signing this agreement.

3. Charges

3.1. The fees for the season are set out in the Schedule and are available in hard copy upon request. The Stud may prospectively vary the fees from time to time and will notify the Owner in writing.

3.2. The Owner appoints the Stud as its agent to make all decisions with respect to the care and well being of the Horse and is solely responsible for the payment of:

a. transport costs for the Horse to and from Gundy Park Equine Rehabilitation and Fitness Centre.

b. all treatments, drenching, examinations, procedures, operations, swabs and medicines, DNA testing, micro chipping and branding administered to the Horse whilst at Gundy Park. The Owner authorises the Stud to obtain these services on its behalf as and when the Stud sees fit. There is no warranty given by the Stud as to the competence or judgment of any third party employed by it to perform such services;

c. services and supplies including but not limited to those of farrier, horse dentist, chiropractor, veterinarian. There is no warranty given by the Stud as to the competence or judgment of any third party engaged by it to perform such services.

d. all costs of or incidental to entering the Horse in any sale including any commission, promotional fee, passed in commission and the Owner further agrees to pay to the Stud a commission of 2% of all gross sales of the Owner's Horse, whether sold by public auction or private sale together with all accommodation, sales entertainment, sales costs, advertising, marketing and any other costs incurred by the Stud.

3.3. The Owner agrees to pay to the Stud all amounts due to it and/or third parties who have provided services or supplies to the Horse prior to the removal of the Horse from Gundy Park. The Owner authorises the Stud to deduct such amounts due to it or third parties from any sale proceeds or insurance proceeds for the Horse.

3.4. If payments due to the Stud are not made within 30 days of the due date, interest will be charged from the due date of invoice to date of receipt of payment at the rate of 2.5% per month. All costs and expenses incurred by the Stud in connection with debt recovery action will be payable by the Owner including indemnity legal costs on a solicitor/client basis.

3.5. The Stud will be entitled to retain possession of any mare return, document of description and all foal cards, or replacement foal cards until all monies (including interest) and any collection or legal costs are paid pursuant to this agreement.

4. Security Agreement - Personal Property Securities Act 2009

The Owner grants the Stud a security interest pursuant to the Act in the Horse as security for any monetary obligations and further acknowledges that the Stud may at its discretion register a financing statement with the PPSR in relation to this security interest.

5. Owners Warranty & Responsibilities

The Owner covenants with the Stud that:-

a. The Owner is the registered Stud Book owner of the Horse with full power and authority from every (if any) other Owner to enter into the agreement.

b. The information set out in the Schedule is and will remain true and correct.

c. The Owner must correctly identify the Horse on delivery to or collection from Gundy Park and provide the Stud with Stud Book identification document for the Horse.

d. Upon delivery to Gundy Park, the Horse is not fractious, is free from disease or infection, that all vaccinations are up to date and, the Horse, if a mare, is in sound breeding condition.

e. The Owner is liable for any costs that may be payable by the Stud for any mandatory quarantine protocols that require immediate action by the Stud and any urgent veterinarian expenses that may be required if a horse displays infectious systems.

f. Inspection of the Horse by the Owner must be by appointment on reasonable notice.

g. The Owner will provide at least 48 hours notice to the Stud before removing the Horse.

h. Upon leaving Gundy Park the Horse will be deemed to have been delivered to the Owner.

i. The Stud will not be responsible for any problems arising out of delivery of a wrong Horse to or Gundy Park.

6. Insurance

6.1. The Owner should arrange such insurance as he/she/it deems necessary for and in respect of the Horse.

6.2. The Owner must notify the Stud of the existence and terms of any insurance policies and will provide copies if requested by the Stud.

6.3. The Stud is not responsible for any incident or any actions which might void or diminish the liability of the insurer under any insurance policy.

7. Irrevocable Authority

For good and valuable consideration the Owner hereby provides an irrevocable instruction, direction and authority to any sales company who sells a Horse to pay any proceeds of sale of the Horse and to any insurance company to pay any proceeds of any insurance policy for the Horse to the Stud, without requiring further notification to the Owner. The acceptance of such proceeds by the Stud will be without prejudice as to the Stud's rights to pursue the Owner for any shortfall or monies owed, or other damages. The provision of a certified copy of this document to the sales company or insurance company will be good and sufficient evidence of this authority.

8. Hold Blameless Acknowledgement - Release & Indemnity

8.1. The Owner acknowledges that the breeding and rearing of thoroughbred horses is a high-risk activity and that thoroughbred horses are prone to injury.

8.2. The Owner agrees that he/she/it has been provided with the opportunity to inspect Gundy Park and that Gundy Park is in a fit and proper condition for the purpose of all functions to be performed by the Stud under this agreement. The Stud will endeavour to provide all care, good husbandry and attention to the Horse but will not be liable for any negligent act or Claims.

8.3. The Horse will be and remain under the Stud's care, custody and/or control entirely at the Owner's risk. The Owner and the Owner's invitees will attend Gundy Park entirely at their own risk. The Owner agrees to indemnify and keep indemnified the Stud and its invitees and release them from all Claims of whatsoever nature or howsoever caused, whether caused by misconduct, fault, recklessness or negligence of the Stud or invitees.

8.4. The only conditions and warranties which are binding on the Stud in respect of the Services are those imposed by statute (including the Competition and Consumer Act 2010).

8.5. To the extent permitted by statute the liability (if any) of the Stud arising from the breach of the conditions or warranties referred to in clause 12.4 are, at the Stud's option, limited to and completely discharged by the re-supply of the Services, or if the Services cannot be resupplied for any reason, to the cost of having the Services or equivalent Services supplied again.

9. Lien and Power of Attorney

9.1. The Owner grants the Stud a lien in the Horse, all insurance policies relating to the Horse, all stud book returns, all mare and foal cards and replacement mare and foal cards and the proceeds from the sale of the Horse.

9.2. For good and valuable consideration, the Owner appoints the Stud as its Attorney:

a. to execute and file any liens, irrevocable authorities, all and any notices and documents under the Act or to the Stud Book, in any jurisdiction or to any entity believed to be appropriate to secure any obligation of the Owner to the Stud, whether arising by the owing of fees or monetary obligations or otherwise.

b. without notice to the Owner, take possession of the Horse and either retain the Horse in lieu of the obligation, or re-sell the Horse privately or publicly in a manner in its sole discretion the Stud thinks fit, in which event the Stud will credit the net proceeds of the sale, after first deducting expenses of sale and of maintaining the Horse, against the Owner's monetary obligations to the Stud. This right is in addition to all other rights to which the Stud is entitled under law.

10. No Liability

10.1. The Owner acknowledges that the breeding and rearing of thoroughbred horses is a high-risk activity and that the Owner is required to insure against such losses.

10.2. The Stud will not be liable for any loss, damage or claims whatsoever nature or howsoever arising from injury, sickness, disease or death caused to or sustained by the Horse and/or any person or thing resulting from the Services envisaged by this agreement and the Owner shall indemnify and keep indemnified the Stud against any liability or loss arising from any costs, charges, expenses and liabilities incurred in relation to any and all such claims, including but not limited to, solicitor/client, legal costs and expenses on a full indemnity basis.

11. Legal Advice

The Owner represents and warrants that he/she/it has obtained independent legal advice or has been given the opportunity to seek legal advice in relation to the terms and effect of this agreement.

12. Notice

12.1. Any notice required or permitted to be given by either party to the agreement must be in writing and served by post or by hand delivery or by e-mail or by facsimile to that party's contact details as provided for in the agreement or such other contact details as notified in writing to the other party.

12.2. Any notice given pursuant to clause 16.1 will be deemed served 3 business days after posting or upon a signed acknowledgement of receipt upon being hand delivered or upon receipt of a successful facsimile confirmation or upon receipt of an e-mail delivery receipt notification notwithstanding that such notice may not have been received by that party.

13. Amendments

The Stud reserves the right to prospectively amend the agreement at any time by notice in writing to the Owner and that change will take effect from the date on which the Stud gives notice to the Owner.

14. General

14.1. This agreement is assignable by the Stud for purposes of enforcement.

14.2. If any provision of this agreement is invalid, void, illegal or unenforceable, the validity, existence, legality and enforceability of the remaining provisions will not be affected, prejudiced or impaired.

14.3. The failure by the Stud to enforce any provision of this agreement will not be treated as a waiver of that provision, nor will it affect the Stud's right to subsequently enforce that provision.

14.4. This agreement is governed by and construed in accordance with the laws applicable in New South Wales. The parties submit to the exclusive jurisdiction of its courts and courts of appeal from them. The parties will not object to the exercise of jurisdiction by those courts on any basis.

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15. Acceptance

The Owner's acceptance of these terms which the Owner hereby acknowledges he/she/it has read on or before signing this agreement is signified by signing this agreement or by delivering the Horse to Gundy Park, or to the sale or inspection venue, or by permitting the Horse to be and remain at Gundy Park or under the control and custody of the Stud, in any case after the date of this agreement.