



AGREEMENT FOR TERMS OF TRADE FOR STORAGE OF FROZEN EQUINE SEMEN

THIS AGREEMENT is made on the _____ day of _____ 20_____.

PARTIES:

1. TAMWORTH EQUINE VETERINARY CENTRE (TEVC) OF 152 King George Avenue, Tamworth in the State of New South Wales (the "Bailee"). See item 1 of the Schedule.

2. (Name) _____

3. of (address) _____

POSTCODE: _____

(The "bailor"). See item 2 of the Schedule.

RECITALS:

- A. TEVC stores semen on behalf of the bailor for the purpose of artificial insemination.
- B. The bailor is at all times the owner of the semen that are being stored with the TEVC.
- C. All semen stored at TEVC is done so at the bailor's risk.

STORAGE:

- 4. TEVC agrees to store as required for the bailor, under the terms and conditions set about herein.

INSURANCE:

- 5. The bailor acknowledges that the TEVC shall not hold nor be required to hold any insurance of any kind covering any loss relating to the storage and transport of the semen and the bailor agrees to have their own insurance taken out over the semen.

PRICE:

- 6. The price of storage for each straw of semen is set out in item 3 of the Schedule.
- 7. The price of administration of accounts is set out in item 4 of the Schedule.
- 8. The charges in 5 & 6 shall be revised from time to time by TEVC and any changes notified to the bailor.

UNDERTAKINGS:

- 9. The person executing this agreement on behalf of the bailor warrants that they are duly authorised to enter and execute this agreement on behalf of the bailor.

DEFAULT OF BAILOR:

- 10. If the bailor defaults payment of an account rendered to them by the TEVC regarding storage of semen as set out in item 4, 5, 6 and 7 of the Schedule, TEVC may, without prejudice to any other right the bailor may have under this agreement or at law, give written notice requiring the bailor to remedy the default within 14 days.

- 11. If a notice is given under sub-clause (1), in addition legal costs rendered in the account to the bailor, the bailor shall pay:

- a. All reasonable costs and expenses (including legal costs incurred by SEH) as a result of the default.
- b. Interest on the outstanding account at the rate set out in item 5 of the Schedule, calculated daily from the due date of payment.

- 12. In the event that the bailor fails to remedy the default in accordance with the notice, TEVC has the right to cancel this agreement and (to the extent necessary is authorised by the Bailor) to sell the straws of semen (without accounting to the Bailor

for the proceeds) or dispose of them however they wish.



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13. Upon the cancellation of this agreement pursuant to this clause, the bailor shall pay to the TEVC by way of liquidated damages:

- a. Interest as provided; and
- b. The costs of the default.

BAILOR RISK:

14. 1) TEVC undertakes to use their best endeavors to take reasonable precautions for the care and safety and storage of the semen but in all other respects the storage of the semen shall be at the sole risk of the bailor.
- 2) TEVC shall not be responsible or liable to the bailor for any loss suffered.
- 3) The bailor covenants and agrees with the TEVC that neither he/she or any person claiming under or through them shall have any reason of damage to or loss of semen and embryos stored with the TEVC.

NOTICES:

15. 1) Any notice given under this agreement shall be in writing and may be given by post, or by delivery to the party's
 - Last known address
 - Registered office
- 2) Notices that are posted must be taken to have been received 48 hours after posting unless otherwise (or where the notice is posted to an address in another country, on the seventh business day following the day on which it was posted).
- 3) Notices sent by email after 5.00pm will be taken to have been received at 9.00am on the next business day at the place where it is received.

LAW:

16. The proper law of this contract shall be the state of New South Wales in Australia and the parties agree to submit to the exclusive jurisdiction of the courts of that state.

SCHEDULE:

Item 1 The Bailee Name: Tamworth Equine Veterinary Centre (TEVC)
 Address: 152 King George Avenue, Tamworth
 NSW 2340 Telephone: (02) 67664333
 Email: info@tamworthequine.com.au

Item 2 Name: _____
 Address: _____
 _____ Postcode: _____
 Tel no: _____ Fax no: _____
 Email: _____



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- Item 3 Storage fees (GST inclusive) 0-100 straws \$22 p/m, 101-500 straws \$45 p/m, 500+ straws \$69.30 p/m (billed every 6mths)
- Item 4 Administration and/or Account Keeping fee per month on overdue accounts; 1.25% or \$5.00 or whichever is greater.
- Item 5 Interest rate accruing on outstanding amount of account from date payment was due: 10%

SIGNED by: _____ (name) _____

on behalf of Tamworth Equine Veterinary Centre (the Bailee).

In the Presence of: _____ (Witness name)

Witness Signature: _____ **Date** ____/____/2024

SIGNED by: _____ (name) _____

On behalf of the Bailor.

In the Presence of: _____ (Witness name)

Witness Signature: _____ **Date** ____/____/2024

I confirm I have read and understood the attached Terms & Conditions.

Name _____

Signature _____ **Date** _____



Tamworth Equine Veterinary Centre ("TEVC") Terms & Conditions

All treatment conducted by Tamworth Equine Veterinary Centre ("TEVC") shall be subject to the following Terms and Conditions which bind every Owner of an animal jointly and severally. The Owner providing instructions and obtaining treatment warrants they have the full power and authority to accept these Terms and Conditions.

1. Appointment of Agent

If applicable, the Owner acknowledges that they have appointed a thoroughbred racehorse trainer registered with Racing New South Wales or an agistment Farm as their agent. The Owner further acknowledges that any thoroughbred racehorse trainer or agistment Farm who has custody and control any of the Owner's horses has the power and authority to obtain all veterinary treatment for that horse or horses on the Clients behalf and that the Owner will be responsible for prompt payment of all accounts rendered by TEVC to the Owner in respect to that veterinary treatment.

2. Provision of Credit

In the event that the Owner does not complete a formal application for credit, or payment at the time of service provision is not effected SEG provides credit on these terms and conditions only.

3. Monthly Invoice/Statements

TEVC will provide a detailed invoice/statement for the provision of service/s and the supply of goods as near as possible to month end or in some cases at the time of discharge.

4. GST

All services are charged inclusive of GST.

5. Payment Terms

5.1 Standard trading terms are strictly 30 days net from the end of month invoice/statement date.

5.2 Interest of 1.25% per month will accrue from the expiry of that period, calculated daily and applied to all late payments. Interest will accrue from day to day and will be payable on demand. The payment of interest by the Owner in respect of any late payment under this clause 5 is in addition to any other remedies that TEVC may have in respect of such late payment.

6. Security Interest – Personal Property Securities Act 2009

6.1 This Agreement constitutes a Security Agreement for the purposes of the Act and where the context requires the words used in this Agreement should be given the same meaning as in the Act.

6.2 As security for any outstanding fees or other monetary obligations incurred in servicing, feeding or developing the Horse, the Owner: (a) grants to TEVC a Security Interest, being a Charge over the Horse and any proceeds realised from either the sale thereof or any insurance policy relating thereto,

(b) consents to the registration of the Security Interest created by this Agreement on the Personal Properties Security Register ("PPSR"),

(c) consents to TEVC registering a financing statement and/or financing change statement with the PPSR.

6.3 The Owner acknowledges that the Progeny is deemed to have come into existence, for the purposes of the Act, from the time of the 45-day positive pregnancy test.

6.4 The Owner undertakes to: (a) promptly sign any further documents and/or provide any further information requested by TEVC to complete and register any financing statement or any financing change statement with the PPSR; and

(b) indemnify, and upon demand reimburse, TEVC for all expenses incurred in searching, registering and/or discharging a financing statement or any other document with the PPSR and any reasonable enforcement fees and expenses in relation to such Security Interests; and

(c) not grant any Encumbrance to any other person in the Horse without first obtaining the consent in writing of TEVC. TEVC will be entitled, at its sole discretion, to withhold consent without providing a reason.

6.5 The Owner acknowledges and waives its rights to notice as a debtor or Grantor under sections 95, 121(4), 129(2)(a), 130, 132(3)(d), 132(4), 135 and 137(2) of the Act.

6.6 The Owner declares that, to the extent permitted under the Act, sections 142 and 143 of the Act will not apply to this Agreement and the Security Interests granted under clause 8.2.

6.7 TEVC will discharge the registration of the Security Interests on the PPSR when all of the secured obligations of the Owner under this Agreement are satisfied.

6.8 The Owner warrants that the Horse is not subject to an existing Encumbrance at the time of entering into this Agreement.

TEVC's Rights to Seize the Horse if Fees Unpaid

6.9 In the event that: (a) the Owner or a third party has possession of the Horse; and

(b) Fees or other monetary obligations are due but unpaid to TEVC under this Agreement; and

(c) TEVC has made demand in writing to the Owner for payment of those monies; and

(d) TEVC has not received such payment within the timeframe specified in the demand;

then, the Owner acknowledges and agrees that TEVC is entitled to seize the Horse pursuant to section 138C of the Act and once the Horse is in TEVC's possession the Owner agrees that TEVC may at its discretion either:

(i) retain possession of the Horse and have the ownership transferred to TEVC; or

(ii) dispose of the Horse and retain all or part of the proceeds of the disposal in or towards payment of the fees or other monetary obligations.

6.10 The Owner consents to agents of TEVC entering onto the Owner's property for the purpose of seizing the Horse and consents to indemnify SEG with respect to any trespass claims should TEVC need to seize the Horse from any third-party premises.

Verification Statement

6.11 The Owner waives its rights under section 157 of the Act to receive a verification statement due to the Horse being "commercial property" pursuant to the Act.

Transfer of Title

6.12 The Owner covenants that it will not, nor will it agree to, sell, assign or transfer the Horse until he/she/it has made full payment of any fees and all other monetary obligations to TEVC.

Possession

The Owner acknowledges that at the time the Security Interest granted by clause 7.2 of this Agreement is made:

(a) the Security Interest is granted for value;

(b) the Security Interest is granted to enable amongst other things the Horse to be fed and developed; and

(c) the Horse was held by the Owner;

and, as a result, the Security Interest is a Priority Interest in livestock pursuant to section 86 of the Act.

7. Lien, Power of Attorney & Irrevocable Authority

(a) The Owner grants TEVC a security interest in the Horse and its Progeny, all insurance policies relating to the Horse and its Progeny. The Owner appoints TEVC as its attorney - to execute and file any and all financing statements and agricultural liens and irrevocable authorities to pay in any jurisdiction TEVC or to execute any documents with any entity believed to be appropriate to secure any obligation of the Owner. In the event that the charges are not timely paid, TEVC may, without notice to the Owner, take possession of the Horse and Progeny and either retain the Horse or Progeny in lieu of the obligation, or re-sell the Horse or Progeny privately or publicly in a manner in its sole discretion it believes to be advisable, in which event TEVC shall credit the proceeds of the sale, after expenses of sale and maintaining the Horse or Progeny, to the Owner. This right is in addition to all other rights to which TEVC is entitled under law.



(b) It is an express condition of the TEVC Mare Reproductive Contract that TEVC shall be entitled to a lien over any Mare or its progeny owned by the Mare Owner in respect of any monies due to (whether or not such monies relate to the Mare) and shall have the power to sell the Mare and/or progeny over which such lien is taken to recover such monies (including any interest there on) and for the purpose of exercising the power of sale referred to herein, the Mare Owner hereby irrevocably appoints TEVC as the Mare Owner's attorney with the power to sell the costs incurred by a Solicitor on behalf of in respect to the sale of the Mare or its progeny. The Owner absolutely appoints TEVC as their power of attorney to enter any Mare and/or its progeny for sale at a public sale or auction, to instruct the auctioneers in relation there to and apply the proceeds of its sale to any monies due to TEVC, whether or not such monies relate to the Mare.

(c) For good and valuable consideration, the Owner hereby provides an irrevocable instruction, direction and authority to any sales company who sells any Horses to pay any proceeds of sale of the Horses and to any insurance company to pay any proceeds of an insurance policy for the Horses to TEVC to secure any obligation of the Owner to TEVC without requiring further notification to the Owner. The acceptance of such proceeds by TEVC will be without prejudice to TEVC's rights to pursue the Owner for any shortfall of money owing, 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. Recovery

TEVC shall be entitled to sue for and recover against the Owner any service fee charge on the Owner's account as liquidated demand and the Owner agrees that in the event of default the Owner will pay all reasonable costs, charges, legal expenses, and any other collection agents costs necessary and incidental to recovering monies recovered under this agreement.

9. Hold Blameless Acknowledgement – Release and Indemnity

9.1 The Owner acknowledges that the provision of veterinary treatment to horses and other animals is a high-risk activity and that the Owner is able to insure against such losses.

9.2 The Owner acknowledges and agrees that they have been given the opportunity to inspect TEVC and that its facilities meet the standard applicable to the equine veterinary facilities of the industry, and that

9.3 TEVC will be held blameless in respect to any injury, infection, disease or death of any horse in its care.

9.4 The Owner releases TEVC, its owners, partners, employees and agents of it from any Claims and agrees to indemnify and keep indemnified TEVC against any liability or loss arising from, and any costs, charges, expenses and liabilities incurred in relation to any Claims relating to the horse or progeny and in each case, including but not limited to, solicitor client, legal costs and expenses on a full indemnity basis.

9.5 Further TEVC shall not be liable for any loss, damage or Claims of whatsoever nature or howsoever arising from injury, sickness, disease or death caused to or sustained by the horse or progeny whilst under the care or control of TEVC or its employees and agents.

9.6 TEVC shall not be liable to the Owner (in the case of more than one, to any of them) for any Claims, loss, damage, costs or expense and arising out of any injury, damage or death which may arise or be caused and notwithstanding the same as attributable to or is in part attributable to recklessness, negligence, forbearance or neglect by TEVC or any servant or agent of TEVC or any other person in whose care or control TEVC may place the horse or progeny.

10. Retention

Retention without limiting TEVC rights in respect of a Lien or Power of Attorney TEVC shall be entitled to retain possession of the horse and progeny until all monies collection costs and Solicitor client interest costs due and owing for all services have been received from the Owner.

11. Acknowledgements

11.1 The Owner understands and acknowledges that this application is for a commercial credit account.

11.2 The Owner understands and acknowledges that:

(a) The Owner warrants that the correct horse or animal is delivered or presented to TEVC.

(b) The Owner is not entitled to raise a set off or counter claim in respect of any amount it owes to TEVC and all amounts to be paid by the Owner under this agreement will be paid in full without deduction or withholding

(c) The Owner acknowledges the fact that a party fails to do, or delays in doing, something the party is entitled to do under these terms and conditions does not amount to a waiver.

(d) The Owner authorises TEVC to administer local, general anaesthetic, perform surgery and carry out diagnostics procedures.

(e) The Owner acknowledges that no surgical, anaesthetic procedure or diagnostic procedure is without some risk to the horse. The Owner accepts all potential risks including any complications that may develop as a result of this procedure and accept that such complications may incur additional fees. The Owner acknowledges that there is potential for complications following any surgical procedure. The Owner acknowledges that post-operative care 24-hour intensive veterinary treatment, veterinary nursing care, hospitalisation and transportation may be required and TEVC instructs for it to be undertaken as deemed necessary.

(f) The Owner acknowledges that it must make a deposit of 50% of the estimated costs of treatment before any surgical procedure is performed and that the balance of the account is settled in full prior to the horse being discharged from the TEVC care.

(g) The Owner understands that de-identified veterinary data, obtained while the horse is under veterinary care may be used for future scientific publications.

(h) The Owner understands treatment of the horse may involve the use of drugs that are not specifically registered for horses, accept the veterinarian has the legal authority for off-label use of these drugs & authorise them to use these drugs if deemed appropriate.

12. LAW

The Law of New South Wales governs this agreement and the parties submit to the jurisdiction of that state.

13. SEVERANCE

If for any reason any part of these terms and conditions would render the Agreement ineffective, void, voidable, illegal or unenforceable, that part shall, without in any way affecting the validity of the remainder of the Agreement, be severable here from and the Agreement shall be read and construed and take effect for all purpose as if that part were not contained herein.

14. IMPLIED TERMS

14.1 Except as required by statute and including the Competition and Consumer Act 2010), all implied conditions and warranties are hereby excluded. Subject to the extent that such conditions and warranties cannot be excluded under statute (including the Competition and Consumer Act 2010)

14.2 Except as required by statute (including the Competition and Consumer Act 2010) TEVC does not accept liability for any direct, indirect or consequential loss of damage caused to the Owner or any other person which arises out of the negligence or carelessness of TEVC or any of its employees, servants or agents. For the purpose of the foregoing "consequential loss" shall include, but not be limited to, loss of profit or goodwill (or similar financial loss), any payment made or due to any third party and any loss or damage caused by delay in the supply of goods or services.

15. NOTICES

All notices between TEVC and the Owner shall be considered to have been sufficiently delivered if mailed in the ordinary course of post and will be deemed to have been delivered three (3) days after mailing to the address provided, or such other address notified to TEVC by the Owner in writing, or if the Owner is a company, the registered office or principal place of business. In the case of email, notices shall be deemed to have been delivered the next business day after the successful transmission of an email addressed to the Owner at the Owner's email address provided or such other address notified to TEVC by the Owner in writing notwithstanding that any such notice may not be received by the Owner.

16. AGENCY

In the event that services are obtained by an agent on behalf of the Owner, or a representative or principle on behalf of the Owner if the Owner is an organization or corporation, the agent, representative or principle hereby unconditionally guarantees the full and prompt payment of the charges as well as the full and prompt performance by the Owner of any and all other obligations in these terms and conditions. The agent agrees he or she will be personally liable and jointly and severally liable with the Owner to pay all monies owed to TEVC. The foregoing guarantee and warranty shall remain in effect regardless whether the agent, representative, or principal retains his or her status as such following the execution of this agreement.



17. Definitions

In these Credit Terms & Conditions:

"Claims" means all claims, investigations, demands, actions, proceedings, suits causes of action, damages, debts, costs, verdicts and judgments whatsoever whether at law or in equity or under any statute including but not limited to all claims arising from or out of damage to the Horse or Progeny or as a consequence thereof which relate to any incident or matter which occurred as a result of the horse or progeny being exposed to any disease, injury or death whilst at TEVC or as a result of movement of the horse from SEG for the purpose of service of the horse, foaling or treatment, and whether at common law, in equity or arising out of the provisions of any statute.

"Encumbrance" means:

(a) any Security Interest; (as defined in the PPSA)

(b) any right, interest or arrangement which has the effect of giving another person a preference, priority or advantage over creditors, including any right of set-off;

(c) any third party right or interest in property, or any right arising as a consequence of the enforcement of a judgment;

(d) or any agreement to create any of them or allow them to exist.

"Farm" means the farm where the Horse resides.

"Goods" means any pharmaceutical or veterinary product used to treat an equine.

"Horse" means any horse and its progeny owned by the Owner.

"Security Interest" means:

(a) In relation to any personal property (as defined in the Act), has the same meaning given to it as defined in section 12 of the Act; and

(b) In relation to any other property, means any charge, mortgage, pledge, bill of sale, hypothecation, lien, arrangement concerning the deposit of documents evidencing title, trust, power, title retention arrangement or any other covenant or arrangement of any nature made to secure the payment of money or the observance of an obligation.

"Service/s" means any form of veterinary services including treatment, surgery, diagnostic aid, laboratory test, advice, or any other veterinary involvement in the treatment of an equid.

"The Act" means the Personal Property Securities Act 2009.

"The Owner" means the person, part owner, lessee, part lessee, syndicate member, syndicate manager, director, shareholder secretary, trustee, beneficiary, company, entity or any person who is recognised as an owner both jointly and severally, where there is more than one person who by definition shares ownership in the horse, or other person passing a horse to TEVC that were provided with veterinary services and/or goods.

☐ I have read and understand the attached terms and conditions and agree to abide by them.