

**NEW ZEALAND
THOROUGHBRED RACING**



PUREI HŌIHO NĀTI O AOTEAROA

STANDARD TRAINING AGREEMENT

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(VERSION 1 – Effective 1 November 2020)

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1. Definitions.

Unless the context requires otherwise, words and phrases defined in the New Zealand Rules of Racing (the **Rules**) are to have the same meaning when used in this Agreement as they have under the Rules and:

“Agreement” means this Standard Training Agreement.

“Daily Training Fee” means the daily training fee set out in the Fees Notice, as increased or varied from time to time in accordance with this Agreement;

“Co-owner”, for the purpose of this Agreement, means a person who owns or leases the Horse together with at least one other person and is registered or is intended to be registered with NZTR as an Owner or lessee

“Date of Entry to the Stable” means the date on which the Horse is first delivered to the Trainer for training pursuant to this Agreement;

“Dispute Notice” means the NZTR form of that name referred to in this Agreement and the TOR Rules.

“Commission Period” means the period commencing on the Date of Entry to the Stable (including periods when the Horse is spelled from training) and ending on the later of:

- (a) the date this Agreement terminates in accordance with clause 16 of this Agreement;
- (b) the date that is one month after the date on which a person other than the Trainer starts training the Horse for racing purposes; or
- (c) the date on which the Horse first starts in a trial or race after this Agreement terminates;

“Dispute Notice” means the NZTR form of that name referred to in this Agreement and the TOR Rules.

“Enforcement Action Application” (EAA) means the NZTR form of that name referred to in this Agreement and the TOR Rules, which the Trainer is entitled to submit to NZTR in accordance with the TOR Rules once the presumption of a training debt arises.

“Fees Notice” means the written fee disclosure notice the Trainer must provide to the Owner pursuant to this Agreement and the TOR Rules.

“Filing Fee” means the fee set and charged by NZTR to cover administrative costs of the TDT process.

“Freeze” means, in relation to prizemoney to which the Owner would otherwise be entitled, a direction by NZTR that that prizemoney be withheld or not allowed for a period of time that is fixed by either.

“GST” means any tax imposed on the supply of goods or services.

“Horse” means the Thoroughbred horse/s owned by the Owner or Co-owners together and where applicable raced by them together and trained by the Trainer, and which is/are the subject of this Agreement.;

“Invoice/s” means the invoice/s issued by the Trainer in relation to Training Fees and/or Training Disbursements.

“Notice of Election of Hearing” means the NZTR form of that name referred to in this Agreement and the TOR Rules, which NZTR makes available for the purpose of the parties electing to take a dispute in relation to Training Fees and/or Training Disbursements to a TDT.

“Owner” means, for the purpose of this Agreement, an owner, part owner, lessee, Syndicate registered with NZTR, corporation or Racing Manager, or any of them, but does not include an Exempt Owner or a member of a Syndicate registered with NZTR in his, her, or its own right (who for the purposes of this Agreement is represented by the relevant Syndicate Manager). Where there is more than one Owner of a Horse/s and the context in this Agreement permits, Owner means the several owners which make up the ownership of the Horse/s.

“Owner’s interest” means the percentage interest or share in the Horse owned by the Owner, as specified in the relevant NZTR registration form held by NZTR or as subsequently amended by another later registration form (including a transfer of ownership form) lodged with NZTR.

“Presumption of a training debt” means the presumption that Training Fees and/or Training Disbursements are due and payable from the Owner to the Trainer which arises in the circumstances identified in clause 4.3(a) of this Agreement and the TOR Rules.

“Owner’s Property” means the property, if any, which legally belongs to the Owner but which is in the possession of the Trainer;

“Racing Manager” means the person who is specified as the Racing Manager in the relevant registration form lodged or to be lodged with NZTR and, for the purpose of this Agreement, the Trainer is entitled to rely on the Horse’s ownership registration records held by NZTR as conclusive evidence that the person specified on the relevant registration form is the Racing Manager of the Horse, unless the Trainer has actual knowledge to the contrary.

“TOR Rule” means the trainer owner reform rules contained in Part XV of the NZTR Rules of Racing.

“Trainer” means any individual or training partnership operating a business which is licensed by NZTR to train horses under the Rules of Racing and who trains the Horse/s on behalf of the Owner.

“Training Disbursements” means the amounts paid or payable by the Trainer to third parties in relation to the provision of Training Services which are not included in the Training Fees and for which the Trainer invoices the Owner (including veterinary fees, farrier fees, dentist fees, race acceptance and nomination fees, interstate racing costs, and race-day expenses such as strapper attendance fees).

“Training Disputes Tribunal (TDT)” is a decision-making body set up by NZTR to determine disputes in relation to Training Fees and/or Training Disbursements, as provided for in the TOR Rules and this Agreement.

“Training Fees” means the amounts charged by the Trainer to the Owner in relation to the provision of Training Services, which includes the daily training fee plus any additional daily charges for other items such as track usage fees and administration fees, together with all other costs charged by the Trainer to train and/or care for the Horse which are not charged as Training Disbursements.

“Training Services” means all the services provided by the Trainer (or qualified and authorised employees of the Trainer or persons engaged as contractors or otherwise by the Trainer) in relation to the care, training and/or racing of the Horse including training, pre-training, rehabilitation, maintenance, stabling, feeding, exercising, transportation, spelling, rental of gear, and the provision

of veterinary, chiropractic, acupuncture, dental, and farrier services and therapeutic treatments.

2. Interpretation.

- 2.1. The provision of Training Services by the Trainer to the Owner is subject to this Agreement, which is to apply between the Trainer and Owner as from 1 November 2020. Where multiple persons together own a Horse/s, and where the context in this Agreement permits, “Owner” should be understood to mean the combined owners of the Horse/s.
- 2.2. The parties agree to be bound by the Rules of Racing.
- 2.3. This Agreement is governed by the laws of New Zealand.
- 2.4. Any dispute in relation to Training Fees and/or Training Disbursements the subject of this Agreement would be heard pursuant to Rule 1515.
- 2.5. The terms and conditions of this Agreement bind all Owners, whether or not they were Owners at the date of this Agreement.
- 2.6. The terms of this Agreement can be excluded, varied or limited by agreement in writing between the Trainer and the Owner, except that the parties cannot exclude, vary or limit the operation of any provision of this Agreement which embodies or mirrors a requirement of the Rules of Racing. This Agreement applies to the arrangements of all Trainers (and training partnerships) with Owners in relation to the provision of Training Services. Further, where the Trainer provides Training Services through a company or other business structure (including for the purpose of the billing of Training Fees and/or Training Disbursements), that company or other business structure through which the Trainer or training partnership provides Training Services will be bound by this Agreement, and the Trainer is deemed, to the extent relevant, to be the authorised agent of that company or business structure. That means the operation of the TOR Rules (including this Standard Training Agreement) cannot be avoided on account of the Trainer or a training partnership providing Training Services through a corporate entity or other business structure which is not licensed or registered.
- 2.7. Where there is more than one Owner of the Horse:
 - (a) this Agreement binds all Owners severally, but not jointly and severally; and
 - (b) all actions and decisions made by the Racing Manager in respect of this Agreement will be taken to be made on behalf of all of the Owners, except where this Agreement, or the Owners in writing, provide otherwise.
- 2.8. In the event of any conflict or inconsistency between this Agreement and the Rules of Racing, the Rules of Racing prevail to the extent of the conflict or inconsistency.
- 2.9. In this Agreement headings and bold typing are for convenience only and do not affect interpretation.
- 2.10. A reference to a word includes the singular and the plural of the word and vice versa.

- 2.11. A reference to a gender includes any gender.
- 2.12. If a word or phrase is defined, then other parts of speech and grammatical forms of that word or phrase have a corresponding meaning.

3. The Rights and Responsibilities of the Trainer.

- 3.1 From the Date of Entry to the Stable, the Trainer will:
- (a) exercise, prepare and train the Horse for racing;
 - (b) provide the Horse with suitable stabling or paddock accommodation;
 - (c) keep the Horse in good and proper condition including feeding the Horse with such feed as is ordinarily given to racehorses in training;
 - (d) enter and start the Horse in trials and races in New Zealand (and, where appropriate, in other countries) in accordance with an appropriate programme that takes into account the Horse's ability and fitness with the object of winning races; and
 - (e) at the cost of the Owner, engage such qualified veterinarians, farriers, horse dentists, chiropractors, horse masseuses or other suitably qualified persons as the Trainer reasonably considers necessary or advisable to attend and treat the Horse (including obtaining tests, if necessary, to determine the cause of poor performance) and may administer or arrange, in consultation with the Owner, such other therapy or treatment for the Horse as may reasonably be required to prepare the Horse for racing.
 - (f) If the cost of any scheduled treatment event for the Horse (including veterinary or surgical treatment) is, in the reasonable opinion of the Trainer, expected to exceed \$500 (including GST), the Trainer must obtain the approval of the Racing Manager before arranging that treatment.
- 3.2 The Trainer must provide the Owner with a copy of the Fees Notice within 7 days of the date on which the Trainer is engaged.
- 3.3 The Horse is to be trained by the Trainer personally or, in the Trainer's short-term absence, by the Trainer's designated foreman.
- 3.4 The Trainer is to take reasonable care to prevent the Horse suffering any accident, injury or illness. If the Horse has an accident or incurs or suffers any injury or illness while in training or spelling with the Trainer, the Trainer must notify the Owner of the accident, injury or illness as soon as is reasonably practicable and arrange, at the cost of the Owner, for such veterinary or other care and treatment for the Horse as may be required. Any veterinary or other reports (including the results of any scans, x-rays or tests) obtained by the Trainer shall be made available to Owner upon request.
- 3.5 The Trainer shall keep and maintain the Owner's Property, including the Owner's colours (if any), in the same condition as that in which it was delivered to the Trainer, fair wear and tear excepted. Unless agreed otherwise by the Owner, the Horse is to race in the Owner's registered colours (if any).
- 3.6 The Trainer must:

- (a) keep the Owner fully informed of the Horse's progress, health and racing programme and in any event must report to the Owner regarding the same at least once every two weeks; and
- (b) provide the Owner with a detailed statement of account each month setting out the Daily Training Fee and any other costs and expenses payable by the Owner for that month and, if requested, copies of all invoices paid or payable by the Owner since the last statement.

3.7 Notwithstanding clause 2.1(d), the Trainer must not enter the Horse for any:

- (a) trials or races outside New Zealand; or
- (b) race or trial if the race or trial is a jumping event, or if it is within New Zealand, involves inter-island travel,

without the prior consent of the Owner.

3.8 The Trainer must permit the Owner and the Owner's invitees to visit the Trainer's stables to inspect the Horse on reasonable notice and at reasonable times.

3.9 If the Horse is an entire, the trainer must not allow it to be gelded without the express consent of the Owner. The Owner must be given a reasonable period of time to consult with such persons as the Owner considers reasonably necessary before being required to give its consent to the Horse being gelded.

3.10 While in training, the Horse must be kept at the Trainer's stable unless the Owner agrees otherwise.

3.11 The Trainer (or, in the Trainer's short-term absence, the Trainer's designated or foreman) may:

- (a) nominate, enter, accept, withdraw and scratch the Horse for any race or trial in New Zealand; and
- (b) engage, declare and instruct jockeys or apprentice jockeys to ride the Horse in any such trial and race,

at the Trainer's discretion provided the Trainer has consulted with the Owner before doing so where it is reasonably practicable to do so.

3.12 The Trainer must comply with the Rules at all times.

3.13 The Trainer must obtain the approval of the Owner before incurring any charges, costs or fees for an amount in excess of \$500 for any particular matter or item of expenditure other than an emergency veterinary treatment.

4. Rights and Responsibilities of the Owner.

4.1 The Owner must pay the Daily Training Fee to the Trainer.

- 4.2 The Owner may object to the Fees Notice issued by the trainer within the time allowed in the Rules. If the Owner does not object to the Fees Notice issued by the Trainer within the time allowed in the Rules, the basis for providing Training Services set out in that notice is deemed to have been accepted by the Owner.
- 4.3 In addition to paying the Daily Training Fee, the Owner must pay:
- (a) all charges and costs incurred by the Trainer for any additional gear for the Horse, and for any dietary additives, feed supplements and medicines and tonics, that the Trainer considers reasonably necessary;
 - (b) all costs and charges for and incidental to the transportation of the Horse;
 - (c) all costs and charges of any specialist, veterinarian, farrier, horse dentist, chiropractor, horse masseuse or other person who the Trainer reasonably considers need to inspect, check or treat the Horse;
 - (d) the costs of any attendants or strappers on raceday; and
 - (e) all fees charged by any Racing club or otherwise payable in respect of the Horse to any person or organisation pursuant to the Rules including jockeys' fees,

in each case plus GST (if any) provided that all such costs, charges and fees are clearly itemised in the Trainer's statement of account or invoice for the relevant month.

- 4.4 The Daily Training Fee accumulated for each month and all other training disbursements as invoiced by the Trainer are required to be paid by the Owner to the Trainer by the 20th day of the month following the date of the Trainer's statement of account or invoice for the same.
- 4.5 The Owner must notify the Trainer in writing immediately if there is any change in the ownership of, or any new joint interest is created in, the Horse and provide the Trainer with the full name, address and telephone numbers of any such new Owner, part-Owner or lessee. The Owner must ensure that every new Owner or lessee of the Horse is made aware of the terms and conditions of this Agreement and agrees to be bound by this Agreement as fully and completely as if they were an original party to it.
- 4.6 The Owner must notify the Trainer of any change in the postal address and/or telephone, fax or mobile number and/or email address of the Owner.
- 4.7 The Owner must ensure provision is made for the suitable rehoming of the horse upon its retirement from racing.

5. Entitlement to Percentage of Stakes.

- 5.1 The Trainer is entitled to be paid such percentage as may be prescribed under the Rules (or, if no such percentage is prescribed, 10 per cent) of the gross amount of all stakes won by the Horse while it is being trained by the Trainer (excluding any bonuses, trophies, prizes and the value of any awards or rights) plus Goods and Services Tax, if any. (For the avoidance of doubt, this clause applies to any stakes won by the Horse outside New Zealand while trained by the Trainer unless the rules of racing of the relevant jurisdiction prescribe otherwise.)

- 5.2 Bonuses and/or incentives other than those referred to in clause 5.1 must be set out in the Fees Notice required by this Agreement and the TOR Rules.

6. Spelling and Pre-Training.

- 6.1 The Horse is to spell, at the Owner's expense, at such property as the Owner determines in consultation with the Trainer. Unless the Horse spells at the Trainer's stable or at some other property owned or leased or under arrangements made, by the Trainer, the Owner will be solely responsible for the proper stabling and/or paddock accommodation, and the well-being and care, of the Horse while spelling.
- 6.2 The Trainer's obligations in respect of the Horse under clause 3 of this Agreement will be suspended while the Horse is spelling. If the Horse spells at the Trainer's stable or some other property owned or occupied by, or arranged by, the Trainer, the Trainer will remain responsible for the proper stabling and/or paddock accommodation, and the well-being and care, of the Horse.
- 6.3 The Trainer may, with the Owner's approval and at the cost of the Owner, arrange for the Horse to undergo a programme of pre-training before entering or re-entering the Trainer's stable after a spell.

7. Commission on the Sale of the Horse.

- 7.1 If the Owner sells the Horse to a third party during the Commission Period, the Owner must pay to the Trainer such sum as provided for in the Fees Notice issued by the Trainer, or
- 7.2. where an amount has not been provided for in the Fees Notice, if the Owner sells the Horse to a third party, for the purposes of racing, during the Commission Period or during the 3 month period immediately thereafter, such sum as is equal to ten percent (10%) of the sale price plus Goods and Services Tax, if applicable.

8. Racing Manager.

- 8.1 If:
- (a) the Horse is required to have a Racing Manager, the Owner must ensure that full details of the Racing Manager are provided to NZTR in the relevant registration form; or
 - (b) the Horse is not required to have a Racing Manager as at the date of this Agreement but a Racing Manager is subsequently required, the Owner must notify the Trainer in writing of the full name, postal address and telephone number of the Racing Manager.
- 8.2 If there is a change in the Racing Manager of the Horse, the Owner must notify the Trainer, in writing, as soon as is practicable, of the full name, postal address, telephone number and email address of the new Racing Manager.
- 8.3 If there is a Racing Manager for the Horse:
- (a) the Trainer:

- (i) is only required to report or give notices to and consult with; and
 - (ii) is entitled to act on any consent or approval given by or any agreement of, the Racing Manager in respect of the Horse;
- (b) any agreement made between the Trainer and the Racing Manager concerning the racing and training of the Horse will be binding on all the Owners, whether or not they have actual knowledge of such any agreement;
 - (c) any notice required to be given by the Owner to the Trainer under this Agreement will not be binding on the Trainer unless it is given by the Racing Manager; and
 - (d) any agreement required to be made between the Trainer and the Owner under this Agreement will be binding on all of the Owners if it is made between the Trainer and the Racing Manager.

9. Liability and Insurance.

- 9.1 Notwithstanding the Trainer's obligations under this Agreement, the Trainer is not liable for any injury to or illness suffered by, or any damage caused by, the Horse or for the death of the Horse unless the injury, illness, damage or death was caused by or results from the gross negligence of the Trainer or the Trainer's employees or agents.
- 9.2 The Trainer is not required to insure the Horse which at all times remains at the sole risk of the Owner. The Trainer is to advise the Owner of any changes to the training programme for the Horse (including, for example, schooling for jumping) or any other changes to the care of the Horse, which may affect any policy of insurance effected by the Owner in respect of the Horse.

10. Warranties.

- 10.1 The Owner represents and warrants that:
- (a) the details of the Horse and the Owner provided to NZTR in the relevant registration forms are true and correct in every particular; and
 - (b) the Horse is not, nor is any other Horse in which the Owner has an interest, subject to any restrictions imposed by the Rules; and
 - (c) no person other than the Owner has any interest in the ownership of the Horse or, where the Owner is the lessee of the Horse, any unregistered interest as lessee;
 - (d) the Owner is not disqualified or otherwise excluded from entering racecourses in New Zealand under the Rules or otherwise by New Zealand Thoroughbred Racing; and
 - (e) as at the Date of Entry to the Stable, the Horse:
 - (i) has not, to the best of the Owner's knowledge and belief, been administered or treated with any anabolic steroid, hormone or other substance of that nature that is a "Prohibited Substance" within the meaning of the Rules; and

- (ii) will not be administered or treated with any such anabolic steroid, hormone or other substance of that nature while the Horse is spelling with, or under the control of, the Owner.
- 10.2 The Owner will advise the Trainer of any injury suffered by a Horse, or any surgery performed on a Horse, whilst the horse is spelling.
 - 10.3 The Owner is to indemnify the Trainer from and against any claim or loss arising from the forfeiture of any stakes money won by the Horse, or the percentage of any such stakes money paid to the Trainer, arising from or caused by the disqualification or any act or omission of the Owner.
 - 10.4 The Trainer represents and warrants to the Owner that the Trainer is a Licensed Trainer, or the holder of a Permit to Train validly issued, under the Rules.
 - 10.5 The Trainer indemnifies, and is to keep indemnified, the Owner against any claim or loss arising from the forfeiture of any stakes money or any other penalties imposed on the Owner arising from the disqualification of the Trainer or any breach of the Rules by the Trainer that results in the disqualification of the Horse from any race or races.

11. Training Fees and the Fees Notice (TOR 1510).

- 11.1 Within 7 days of the date on which the Trainer is appointed, the Trainer must provide to the Owner or where a Racing Manager has been appointed, to the Racing Manager, a written notice of the Training Fees and Training Disbursements the Trainer proposes to charge (Fees Notice) which must set out:
 - (a) the Training Fees itemised by category of service or item provided as part of that fee;
 - (b) the anticipated Training Disbursements by name of service and anticipated provider (if known); the anticipated Direct Payment Disbursements by name of service and anticipated provider (if known);
 - (c) any additional fees the Trainer proposes to charge the Owner including bonuses for winning races, or commissions on the sale of the Horse; and
 - (d) whether the Trainer proposes to charge interest on any unpaid Training Fees and/or Training Disbursements, which the Trainer may do from the day after an amount falls due and payable up to an interest rate not more than the rate prescribed from time to time by xxxxxxxx.
- 11.2 If the Racing Manager does not object to the Trainer within 14 days after being provided with a Fees Notice, the basis for providing the Training Services recorded in it is deemed to have been accepted by the Owner.
- 11.3 If the Trainer fails to issue a Fees Notice within 7 days of appointment, the only consequence of such failure is that the Trainer is not permitted to rely on the presumption of a training debt in respect of Training Fees and/or Training Disbursements relating to Training Services provided prior to the date on which a Fees Notice was issued.

- 11.4 The Trainer will take all steps practicable to invoice the Owner for the Training Fees and Training Disbursements monthly in arrears, including in respect of any GST.
- 11.5 The Trainer can seek to vary the Fees Notice on 1 month's notice to the Racing Manager of the proposed variation. Unless the Racing Manager objects to the proposed variation within 7 days of receiving that notice or terminates this Agreement, that notice will be effective and bind the parties once the 1 month notice period elapses.

12 Payment for Training Services.

- 12.1 The Trainer must provide the Trainer's Invoice (or Invoices) in relation to the Training Fees and/or Training Disbursements to the Owner by the 15th day of a calendar month following a period of time in which Training Services were provided. [TOR Rule 1511(1)]
- 12.2 If an Invoice is issued in accordance with clause 12.1, the Owner may formally dispute the Invoice (or part of it) by providing a Dispute Notice to the Trainer (with a copy also to NZTR). [TOR Rule 1511(3)]

12.3 If the Trainer issues an Invoice in accordance with clause 12.1:

- (a) Unless it is paid by the end of the month in which it is issued, or a Dispute Notice is served by the Owner on the Trainer by the last day of that month, the Invoice is deemed under the Rules of Racing and this Agreement to be due and payable to the Trainer at the end of that month (this being the "presumption of a training debt"). [TOR Rule 1511(4)]
- (b) Once the presumption of a training debt arises, and until the Owner has paid the relevant Training Fees and/or Training Disbursements to the Trainer, unless NZTR considers there are special circumstances warranting another course, the following consequences apply to the defaulting Owner if the Trainer files an Enforcement Action Application (EAA) with NZTR (and serves a copy on the Owner) and seeks the benefit of any of the matters identified below:
- (i) if the defaulting Owner owns 50% or more of the total of the ownership of the Horse, NZTR will not process any Stable Return seeking to transfer the Horse to another Trainer;
- (ii) NZTR will not register any transfer of the Owner's interest in the Horse; and
- (iii) NZTR will, other than in special circumstances determined in its discretion, Freeze the payment of prizemoney to which the Owner would otherwise be entitled, and direct payment of that prizemoney to the Trainer owed the Training Fees and/or Training Disbursements. Subject to any special circumstances determined by NZTR, the Owner expressly waives any right to objecting to NZTR's payment of such prize money to the Trainer.
- (c) Once an EAA is filed with NZTR by the Trainer pursuant to clause 12.3(b), the Owner is not permitted to serve a Dispute Notice on the Trainer and any purported service of a Dispute Notice after that time will not be valid. [TOR Rule 1513(2)]
- (d) Once an EAA is filed by the Trainer pursuant to clause 12.3(b), unless NZTR considers that a special circumstance warrants another course, each of the consequences stated

in clause 12.3(b)(i) to (iii) will apply until:

- (i) the relevant Training Fees and/or Training Disbursements which are presumed due and payable in accordance with clause 12.3(a) are paid to the Trainer;
- (ii) the Trainer notifies NZTR that the Trainer has come to a settlement with the owner in relation to the disputed amount; or
- (iii) the Owner notifies NZTR that the Owner has come to a settlement with the Trainer in relation to the disputed amount and provides sufficient evidence (as determined by NZTR in its sole discretion) of such settlement.

[TOR Rule 1513(3)]

12.4 (a) The service of a Dispute Notice by the Owner on the Trainer by the last day of the month in which the relevant Invoice/s was issued will have the effect that the presumption of a training debt stated in clause 12.3(a) does not arise. In that instance, unless settled by consent, either of the parties may apply in accordance with clause 12.6 to have the dispute heard and determined by the TDT. [TOR Rule 1515(1)]

(b) A Dispute Notice must comply with the following content requirements:

- (i) must be in a form prescribed by NZTR from time to time, and must provide the information required by that form;
- (ii) must clearly identify the Invoice/s (or part of the Invoice/s) disputed by the Owner, the amount in dispute, and the grounds for the dispute; and
- (iii) must be provided with supporting documentation (to be enclosed with the Dispute Notice) that the Owner intends to rely on in relation to the dispute.

[TOR Rule 1512(1)(a)-(c)]

(c) The Owner must comply with the following timing requirements when serving a Dispute Notice:

- (i) must be served on the Trainer, with a copy also to be provided to NZTR:
 - A. subject to clause 12.4(b), within 6 months of the date of the Invoice; and
 - B. by the last day of the month in which the Invoice is issued if the Owner wishes to prevent the presumption of a training debt arising; and
- (ii) must not be served on the Trainer after an EAA is filed with NZTR by the Trainer, and any purported service of a Dispute Notice after that time will not be valid.

[TOR Rule 1512(1)(d)-(e)]

12.5 Where a Dispute Notice challenges part of an Invoice, the Owner must pay the part not in dispute by the last day of the relevant month in which the Invoice is issued in accordance with clause 12.1 (and failing that, the part not in dispute will be deemed due and payable to the Trainer at the end of the relevant month). [TOR Rule 1512(2)]

- 12.6 Once a Dispute Notice is served by the Owner on the Trainer in accordance with TOR Rule 1511(3), each has the right to elect to have the dispute determined by a TDT by filing a Notice of Election of Hearing with NZTR (with a copy to be provided to the other party to the dispute) within 14 days of the Dispute Notice being served. [TOR Rule 1515(1)]
- 12.7 If the Trainer who fails to issue an Invoice following a period of time in which Training Services were provided by the end of the 15th day of the next month, the Trainer must wait until the subsequent month to seek to establish the presumption of a training debt referred to in clause 12.3(a) (and can then only do so if an Invoice has been provided to the Owner by the end of the 15th day of that subsequent month). [TOR Rule 1511(2)]

13 The Training Disputes Tribunal.

- 13.1 If a party elects pursuant to clause 12.6 to have the dispute determined by a TDT, the party commencing the proceeding must pay the Filing Fee to NZTR at the time of filing the Notice of Election of Hearing with NZTR (and serving it on the other party to the dispute). [TOR Rule 1515(1)]
- 13.2 A Notice of Election of Hearing will only be valid and accepted by NZTR if the Dispute Notice was served within 6 months of the date of the Invoice the subject of the dispute and before any EAA was filed by the Trainer. [TOR Rule 1515(2)]
- 13.3 When a Notice of Election of Hearing is received by NZTR, then unless the amount identified as disputed in the Notice of Election of Hearing has been paid by the Owner into the Training Disputes Trust Account pending determination of the relevant dispute:
- (a) if the Owner owns 50% or more of the total ownership of the Horse, NZTR will not process any Stable Return seeking to transfer the Horse to another Trainer; and
 - (b) NZTR will not register any transfer of the Owner's interest in the Horse.
- [TOR Rule 1515(3)]
- 13.4 The parties agree that TOR Rules 1515(4) to 1515(7) set out the rules which apply to them in respect of hearings before a TDT, including in relation to challenges to a TDT decision. [TOR Rules 1515(4)-1515(7)]

14 Facilitating Payment following a Decision of a TDT.

- 14.1 Where a TDT makes an award in favour of the Trainer, subject to clause 14.2 and TOR Rule 1515(6)(d), until the Owner has paid the amount awarded to the Trainer, the following consequences apply to the defaulting Owner:
- (a) if the Owner owns 50% or more of the total ownership of the Horse, NZTR will not process any Stable Return seeking to transfer the Horse to another Trainer;
 - (b) NZTR will not register any transfer of the Owner's interest in the Horse; and
 - (c) NZTR must, other than in special circumstances to be determined in its discretion, Freeze the payment of any prizemoney to which the Owner would otherwise be entitled.

[TOR Rule 1516(1)]

- 14.2 The consequences in clause 14.1 will apply until the Training Fees and/or Training Disbursements are paid by the Owner to the Trainer (with that payment notified to NZTR). [TOR Rule 1516(2)]
- 14.3 The Owner agrees that TOR Rules 1516(3) and 1516(4) set out the rules which apply, and the consequences that follow, where the Owner has not paid the Trainer as required by the decision of a TDT within 14 days of that decision. [See TOR Rules 1516(3) and 1516(4)]
- 14.4 If NZTR directs prizemoney be paid to the Trainer, but the disputed amount has already been paid or settled as between Trainer and Owner by the time that payment is made to the Trainer, the Trainer agrees to refund the amount paid to it by NZTR to the Owner within 7 days. [See TOR Rule 1516(5)]
- 14.5 The Trainer must inform NZTR within 24 hours of becoming aware of having received payment from the Owner of any Training Fees and/or Training Disbursements ordered by a TDT to be paid to the Trainer. [TOR Rule 1516(6)]

15 Payment Default – Rights and Remedies of the Trainer.

- 15.1 In addition to the Trainer’s rights pursuant to clauses 12 and 13 and the common law, the Trainer may exercise the following rights in relation to outstanding Training Fees and/or Training Disbursements:
- (a) the right to charge the defaulting Owner simple interest on any sum due and payable to the Trainer under this Agreement from the day after Training Fees and/or Training Disbursements fall due.
 - (b) the right to exercise a lien over the Owner’s interest in the Horse until all outstanding Training Fees and/or Training Disbursements have been paid to the Trainer;
 - (c) the right to stop or suspend the Training Services;
 - (d) the right to retain any gear, trophies or other items of the defaulting Owner which are wholly owned by that Owner which are in the Trainer’s possession;
 - (e) to the extent permitted by this Agreement and the TOR Rules, the right to recover from the defaulting Owner reasonable costs and expenses (including legal costs and expenses) associated with enforcement action in relation to recovery of Training Fees and/or Training Disbursements;
 - (f) the right to terminate any agreement with the defaulting Owner in relation to Training Services by written notice in accordance with clause 16 of this Agreement;
 - (g) the right to offer the defaulting Owner’s interest in the Horse for sale:
 - (i) by public auction (with no reserve) to be conducted by either New Zealand Bloodstock Limited, or an online auction (such as gavelhouse.com, and in the case of an online auction that auction must be agreed between the Trainer and

the defaulting Owner or approved by NZTR), and to apply the proceeds of the sale (after deduction of commissions and other expenses) in payment of outstanding Training Fees and/or Training Disbursements; or

- (ii) by private treaty at a price being the average of two valuations, at least one of which must be obtained from New Zealand Bloodstock Limited (and where the second can also be obtained from a member of the NZTR Register of Bloodstock Valuers), or in the amount of one valuation by New Zealand Bloodstock Limited where that single initial valuation values the whole of the Horse at not more than \$200,000 (including GST).

The Trainer is not permitted to offer the defaulting Owner's interest in the Horse for sale unless, in relation to the defaulting Owner's outstanding Training Fees and/or Training Disbursements:

- (i) the Trainer was entitled to and has filed a valid EAA in accordance with the TOR Rules and this Agreement; or
- (ii) a TDT has made an order in favour of the Trainer and the defaulting Owner has not complied with that order.

15.2 For a sale pursuant to clause 15.1(h):

the defaulting Owner must be given at least 14 days' notice of the date and place of any proposed auction sale and/or the details of any proposed private treaty sale;

- (a) if the outstanding Training Fees and/or Training Disbursements are paid in full during the notice period referred to in clause 15.2(a) the Trainer must not offer the defaulting Owner's interest in the Horse for sale;
- (b) if the outstanding Training Fees and/or Training Disbursements are paid in full after the notice period referred to in clause 15.2(a) but before the completion of the sale, the defaulting Owner irrevocably authorises the Trainer to proceed with the sale;
- (c) any person, including any Co-owner and the Trainer, has the right to make a bid or offer on the defaulting Owner's interest in the Horse;
- (d) the defaulting Owner agrees to sign all documents and do all things necessary to facilitate the sale of the interest in the Horse within 5 days of being requested to do so;
- (e) if the defaulting Owner does not comply with clause 15.2(d), that Owner irrevocably appoints and authorises the Trainer as agent to do all acts required and sign all documents necessary to ensure that the power of sale is effectively exercised; and
- (f) if the defaulting Owner's interest in the Horse is not sold at auction or by private treaty within 60 days of being offered for sale, the Trainer must comply with the provisions of this clause 15.2 before offering that interest for sale again.

15.3 In relation to the proceeds of a sale pursuant to clauses 15.1(h) and/or 15.2:

- (a) the Trainer may apply the sale proceeds against any Training Fees and/or Training Disbursements (together with reasonable related enforcement costs and expenses)

outstanding to the Trainer as at the date of the sale of the defaulting Owner's interest in the Horse (together with any interest amount to which the Trainer is entitled under this Agreement, plus costs reasonably incurred in relation to the sale);

- (b) if the sale proceeds are insufficient to satisfy the outstanding debt to the Trainer, the defaulting Owner will remain liable to pay the outstanding balance to the Trainer; and
- (c) if the sale proceeds exceed the amount of the outstanding Training Fees and/or Training Disbursements plus other costs and expenses owing to the Trainer under clause 15.3(a), the Trainer agrees to pay the surplus to the defaulting Owner within 3 business days of receipt of the funds.

16 Termination of Agreement.

16.1 This agreement may be terminated at any time by the Trainer or the Owner by giving not less than 10 days' written notice to the other.

16.2 This Agreement terminates immediately if:

- (a) the Horse dies or suffers any injury, damage or illness that prevents the Horse from being trained or racing; or
- (b) the Horse is not in training for a period of nine consecutive months; or
- (c) the Owner or any Owner becomes disqualified or excluded from entering racecourses in New Zealand under the Rules or otherwise by New Zealand Thoroughbred Racing; or
- (d) the Trainer ceases to be a Licensed Trainer, or the holder of a Permit to Train, under the Rules.

16.3 If the Owner terminates this Agreement for the principal purpose of selling the Horse or the Horse is otherwise sold after the termination of this Agreement but before the expiry of the Commission Period, the Trainer will be entitled to receive the payment set out in clause 6.3 of this Agreement in respect of that sale and this Agreement is to be deemed to remain in full force and effect to the extent necessary to enable the Trainer to recover the commission payable under that clause notwithstanding that this Agreement has terminated.

16.4 If, at the time this Agreement terminates, the Horse or any of the Owner's Property is in the possession of the Trainer and the Owner has paid all amounts due to the Trainer under this Agreement, the Owner is entitled at its expense to take possession of the Horse and Owner's Property.

16.5 If, at the time this Agreement terminates, any sum payable by the Owner to the Trainer remains unpaid, the Trainer:

- (a) may refuse the Owner entry to the Trainer's stables, or any other property owned or occupied by the Trainer where the Horse is being kept; and
- (b) clauses 12 to 15 (inclusive) of this Agreement are to remain in full force and effect notwithstanding that the Agreement has terminated.

17 Notices.

17.1 Notices provided for or required by this Agreement can be served on the Owner:

- (a) at the address (electronic (including email) or otherwise) last provided to the Trainer by the Owner; or
- (b) at the address for the Owner most recently recorded in the records of NZTR; or
- (c) at the address of the Owner recorded on the relevant current NZTR registration form in respect of the Horse.

17.2 Notices provided for or required by this Agreement can be served on the Trainer:

- (a) at the address (electronic or otherwise) last provided by the Trainer to the Owner; or
- (b) at the address for the Trainer most recently recorded in the records of NZTR; or
- (c) at the address of the Trainer recorded on the relevant current NZTR registration form in respect of the Horse.

17.3 Unless established to the contrary, notice is taken to have been received:

- (a) on the fourth business day after the date on which it was sent by registered post;
- (b) on the day and at the time that it appears from the record of email communication that the sending of an email concluded; and

18 Dispute Resolution – Disputes not Concerning Payment.

18.1 This clause 18 does not apply to disputes between the Trainer and the Owner arising in connection with clauses 3 to 7 of this Agreement and/or which are subject to the TOR Rules.

18.2 If there is a dispute between the Trainer and the Owner (including any dispute arising in connection with the provisions of this Agreement other than clauses 11 to 15), the parties shall use reasonable endeavours to resolve the dispute within 14 days of a party being notified of the dispute by the other party.

18.3 Failing resolution of the dispute in accordance with efforts made pursuant to clause 18.2, the dispute or difference arising out of or in connection with this Agreement or its interpretation (including, without limitation, any dispute or difference in relation to the rights or obligations of the parties under this Agreement or their performance or exercise of the same) is to be referred to and finally resolved by arbitration in accordance with the Arbitration Rules of the New Zealand Dispute Resolution Centre (NZDRC) for the time being in force.

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