



Bloodstock Auction Pty Ltd

TERMS AND CONDITIONS

Version 5, Correct at 26th September 2024

These Terms and Conditions (“Agreement”) govern your participation as a member of Bloodstock Auction Pty Ltd. As a member, you agree to abide by these Terms and Conditions, as amended by Bloodstock Auction Pty Ltd from time to time, at its absolute discretion.

MEMBER AGREEMENT

1 Introduction

1.1 This website <http://www.bloodstockauction.com> (the “Site”) is operated by **Anthony J Gafa, Auctioneers License No. 100 37 356** for **Bloodstock Auction Pty Ltd (ACN 168 939 786)** located at Suite 302, 80 Mount Street, North Sydney NSW 2060, Australia.

Bloodstock Auction Pty Ltd (NZBN 942 219 4170) is registered in New Zealand as an Overseas ASIC Company and is operated in New Zealand by **Anthony J Gafa, Certificate No AR0347**.

In these Terms and Conditions, the expressions “we”, “us” and “our” are a reference to Bloodstock Auction Pty Ltd. References to “you” and “your” are to you where you have registered as a member (“Member”). Reference to “Lot” also applies as “Lots” where more than one horse is involved.

1.2 By registering to participate on this Site as a Member, you hereby agree to be bound by the terms, conditions, and obligations set forth in this Agreement, in addition to:

- a) the Bloodstock Auction “Website Terms of Use”; and
- b) any other laws or regulations that apply to the Site, whenever you use the Services made available on the Site.

1.3 Please take the time to read these Terms and Conditions and make sure you understand them. If you do not accept the Terms and Conditions you must refrain from using this Site. Your use of the Site as a Member is deemed to signify your acceptance of the Terms and Conditions and therefore you are bound by the Agreement.

1.4 Bloodstock Auction Pty Ltd reserves the right to retract or withdraw any electronic notifications at its sole discretion as per our Terms and Conditions.

1.5 In order for your membership to be activated, you must submit to us ‘proof of identity’ in the form of a current Driver’s License, or other such photo identification that clearly displays your current address and is deemed appropriate by us in verifying your identity. Your identification will be securely uploaded to your Member Account.

- 1.6 By registering to participate on this Site as a Member, you hereby provide consent for Bloodstock Auction Pty Ltd to share your contact information with relevant Principal Racing Authorities (PRA's) in circumstances where such information is a requirement of sale, or there is a written request made to Bloodstock Auction Pty Ltd by a PRA.

Note: In December 2019, Racing NSW released a Code of Practice ("**Code**") outlining the requirements to sell Thoroughbred Bloodstock domiciled in NSW and made effective 1st January 2020. The Code was developed to supplement Racing NSW Local Rule 114 (LR 114), in relation to Equine Welfare.

Acting in accordance with the Code, Bloodstock Auction Pty Ltd, as an approved thoroughbred auctioneer, must provide Racing NSW, or any other such Principal Racing Authority (PRA) upon request, with the vendor and purchaser contact information for every sale that involves a NSW domiciled thoroughbred horse. This means any thoroughbred that has been located in NSW for more than 50% of its life.

In addition to the above information, we are also required to provide Racing NSW with the physical address of the horse prior to the sale date, and the address of the purchaser or the address to which the horse will be transported to post-sale.

2 Amendments

- 2.1 We reserve the right to amend these Terms and Conditions from time to time. Amendments will be effective immediately upon publication of the revised document, and their availability on the Site. Your continued use of the Site represents an agreement by you to be bound by the Terms and Conditions as amended.

YOUR MEMBERSHIP

3 Use of the Site

- 3.1 We make the following services available to you through the Site (the "**Services**"):
- a) listing Horses (each a "**Lot**") for Auction (in which case you will be deemed to be the "**Vendor**"),
 - b) viewing and bidding on Lot(s) (in which case you will be deemed to be the "**Bidder**"),
 - c) buying Lot(s) where you are the Auction Winner (in which case you will be deemed to be the "**Purchaser**"), and
 - d) The listing of Horses under **Syndications** and **Stallion Directory**, where we list shares in Horses on behalf of Syndicators, and list Stallions on behalf of Studs for availability and comparison. (Refer to Clause 41).
- 3.2 You are required to register using true and correct information in order to become a Member, and only Members may use the Services on this Site. Registration is free and membership does not obligate you to list or purchase Horses.

4 Eligibility

- 4.1 Registration as a Member is only available to individuals aged 18 years and over, that are not an undischarged bankrupt. By using the Site, you guarantee that you satisfy these conditions.
- 4.2 If you act on behalf of a company, trust, syndicate or group of persons, you acknowledge that you must register to use this Site in your own name and agree to be held personally liable in the event of any non-observance or breach of any terms, conditions, or obligations contained in these Terms and Conditions.
- 4.3 If you breach any of these Terms and Conditions, we may, at our discretion, cancel or suspend your membership on a temporary or permanent basis, including all associated, secondary, and re-registered membership accounts. In addition, we may claim damages against you, and you may be liable to pay damages to an aggrieved Vendor or Purchaser as applicable. Breaches include, but are not limited to:
 - a) non-payment for a Lot(s), or refusing to collect a Lot(s),
 - b) providing information that is untrue, misleading, inaccurate or incomplete; or
 - c) engaging in any form of bid manipulation.
- 4.4 We reserve the right, acting in our sole discretion and without giving reason, to refuse, suspend or revoke any membership at any time.

5 Log In Details

- 5.1 Upon completion of your Registration you will be provided with Log In Details (Username and Password). You must not share your Log In Details with any third party and must ensure that you log off from the Site after each use. You agree to notify us immediately if you become aware, or have reasonable grounds to believe, that your Username or Password have, or may have been, compromised.
- 5.2 Upon notification of Log In misuse, we will conduct an investigation and take reasonable and appropriate action where we deem necessary.
- 5.3 Notwithstanding Clause 5.2, you acknowledge that you as a Member will be held liable for any action taken by any person who has accessed the Site using your Log In details, as if you had undertaken the actions yourself, including but not limited to, any bids placed on Lot(s), or the subsequent purchases of any Lot(s).

6 Your Conduct

- 6.1 While using the Services or any information made available on this Site, you guarantee that you will:
 - a) abide by these Terms and Conditions,
 - b) not use the Site for illegal purposes, including without limitation, posting to the Site information encouraging conduct that would constitute a criminal offence,

- c) not engage in any collusive practices, manipulate the price of, or bidding on, any Lot(s) or interfere with other Members' listings (including submitting non-genuine bids on your own, or other Member's listings),
- d) not use the Site to engage in misleading or deceptive conduct, including on-line marketing practices and not provide false or misleading information to us or any third party,
- e) not use any feature of the Site to send unsolicited commercial emails to Members of the Site, whether individually or as a group,
- f) not copy, translate, reproduce, communicate to the public, adapt, vary or modify anything on the Site without our prior written consent,
- g) not use anything on the Site for or in connection with any business or enterprise (whether for profit or otherwise) that is in competition with our business,
- h) not post to the Site or otherwise propagate material of any kind that contains computer worms, viruses or other types of malicious or harmful programs,
- i) not take any action that imposes an unreasonable or disproportionately large load on the Site's infrastructure,
- j) not damage, modify, interfere with, disrupt or destroy the files, data, passwords, devices or resources that belong to us or do anything that compromises the security of the Site,
- k) not use the Site in relation to the actual or proposed sale or transportation of any illegal or prohibited goods; and
- l) not engage in any action or process that may damage the Intellectual Property and or bring the brand into disrepute.

7 Contacting Other Members

- 7.1 **Prior to the Fall of the Hammer:** While you may contact Vendors directly for the purposes of conducting reasonable due diligence prior to bidding on any Lot(s), you agree that you will not contact a Vendor for the purposes of negotiating the purchase of any Lot(s) directly, or external to the Site. Any offers to purchase Lot(s) must be submitted as bids confirmed and completed directly through the Site.
- 7.2 **After the Fall of the Hammer:** If you are an Auction Winner, you will be automatically provided with the contact details of the Vendor to contact them directly. You agree, however, that you will not contact a Vendor for the purposes of completing the sale of the Lot(s) external to the Site. All offers on Passed In Lots must be submitted through Bloodstock Auction Pty Ltd.
- 7.3 We reserve the right to terminate or suspend your membership if we suspect that you have not complied with Clause 7.1 and 7.2. Any sale of a Lot(s) that was conducted while in breach of Clause 7.1 and 7.2 will be subject to sales commission. (Refer to Clause 31).

8 Member Feedback

- 8.1 You acknowledge that we may elect to operate a Member feedback system on the Site where Members may post comments, compliments, criticisms and other observations regarding Bidders, Purchasers or Vendors. You agree that we are not responsible for any content that may appear on feedback pages of such Site and that you will not:
- post any comments that are dishonest, unlawful, harmful, unfair, unreasonable or cannot be substantiated,
 - impersonate any other person when posting material to such Site,
 - post or transmit any material on the Site which is offensive, defamatory, obscene, unlawful, vulgar, harmful, threatening, abusive, harassing or otherwise reasonably objectionable; or
 - disrupt the flow of dialogue or otherwise act in a manner which negatively affects other Members of the Site, or their respective listing.
- 8.2 We reserve the right to remove or refuse to post any information and or materials (in whole or in part) that we, in our sole and absolute discretion, regard to be in breach of these Terms and Conditions, or in violation of any applicable law, without notice to you.
- 8.3 You acknowledge and agree that any information or material submitted by you to such Site for inclusion in any Member feedback system is, and will be treated by us as, non-confidential and non-proprietary and that we may use such material without restriction (without your claim to any copyright), including but not limited to for the purposes of advertising our business.

AUCTION TIMINGS AND CATALOGUES

9 Auction Timings

- 9.1 Unless otherwise notified, we will conduct Auctions on a weekly basis. Auction Catalogues will be released by 5:00pm (Sydney Local Time) each Friday, with the **“Final Countdown”** commencing at 6:00pm (Sydney Local Time) the following Tuesday. During the Final Countdown, all Lots will enter a **“Virtual Sales Ring”** in numerical Lot order, with each Lot allocated one (1) minute in the ring, subject to Clause 12.6.
- 9.2 Unless otherwise notified, Auction Catalogues will remain **“Live”** for a period of five (5) days. Catalogues will be released as specified in Clause 9.1.

10 Catalogues

- 10.1 Auction Catalogues are released and open for bidding each Friday by 5:00pm (Sydney Local Time), or at any other such time as notified by us. Members are only permitted to place a Bids while the Auction Catalogue is live.

Note: The order that Lots appear in the catalogue remains at the sole discretion of the auctioneer, Bloodstock Auction Pty Ltd.

BIDDING AND PURCHASING LOT(S)

11 Before you Bid

11.1 You must be a registered Member of this Site to Bid on any Lot(s).

11.2 Please take care when making a Bid on the Site, **once a Bid has been placed, it cannot be withdrawn.**

11.3 All Lots listed on this Site are sold in their present condition, subject to all faults, imperfections, or other defects whether latent or otherwise.

11.4 When placing a Bid on any Lot(s), you agree that:

- a) you have relied solely on your own enquiries and investigations,
- b) you have been provided reasonable opportunity to inspect any Lot(s) listed, prior to placing a bid,
- c) you have not relied on any statement or representation made by us,
- d) you are not entitled, under any circumstances, for compensation from Bloodstock Auction Pty Ltd for any faults, imperfections or other defects arising in the Lot(s) before or after sale, whether clearly visible or not,
- e) your Bid may not be the winning Bid, as a reserve may be in place, or another member may have previously placed an Auto Bid (or Maximum Bid) that is equal to or greater than your Bid.

Note: Auto Bids will take precedence over all other bids of the same value. In circumstances where an Auto Bid has been placed, and it reaches its maximum amount, even if that maximum bid amount is "**Matched**", the Auto Bid will still take precedence. In order to be the highest bidder, a member will need to place an additional bid above the "**Matched**" amount, at the next available increment.

11.5 We do not:

- a) make any warranty or representation, express, implied or inferred, relating to the quality, standard or suitability of any Lot(s) listed on this Site,
- b) endorse or recommend any Vendor,
- c) have any obligation to prequalify or validate the accuracy or currency of any representations made by any Vendor or third party about any Lot(s) offered for Auction through the Site.

11.6 Where necessary and prior to bidding, we strongly recommend that you obtain independent professional advice that is specifically tailored to your circumstances, including but not limited to, veterinary, financial and legal advice.

11.7 If you are considering placing a Bid on a Lot(s) listed as a pregnant broodmare on this Site, it is recommended that you contact the vendor to confirm the current status of the pregnancy. If a Lot(s) was tested at 45 days, however, is offered without a recent pregnancy certificate (completed within fourteen (14) days prior to the fall of the hammer), all risks associated with such purchase will be the borne by the Purchaser.

- 11.8 It is also recommended that you contact the applicable stallion owners, managers, or stud masters to determine whether a Live Foal Guarantee (LFG), or free return is applicable to the stallion service for the mare in question, and whether these are transferrable to the Purchaser upon sale.

12 Bidding

- 12.1 You may only place Bids on the Site on behalf of yourself, or on behalf of a Company, Trust, Syndicate or group of persons where you have been duly authorised to do so. You acknowledge, however, that you will be held personally liable for any Bids placed on the Site accessed via your Log In Details, regardless of whether that Bid was placed on behalf of a Company, Trust, Syndicate or group of persons.
- 12.2 Bids will be visible on the Site and will be automatically updated as Bids occur.
- 12.3 The increments by which Bids will increase are set out in the table below. Bids that are not entered in accordance with the increments will not be accepted.

| Price at time Bid is placed | Minimum Bid Increments |
|-----------------------------------|-------------------------------|
| \$0 (\$AUD) | \$600.00 (\$AUD) Opening Bid |
| \$600.00 - \$1900.00 (\$AUD) | \$100.00 (\$AUD) Increments |
| \$2,000.00 - \$19,750.00 (\$AUD) | \$250.00 (\$AUD) Increments |
| \$20,000.00 - \$99,500.00 (\$AUD) | \$500.00 (\$AUD) Increments |
| \$100,000.00 – Above (\$AUD) | \$1,000.00 (\$AUD) Increments |

- 12.4 All Bids are made exclusive of GST, however, will be subject to GST where the Vendor and or Owners are registered for GST. Information on the Vendor or Owners GST status is available in the description of each Lot, and it is your obligation to confirm this prior to placing a bid.
- 12.5 Bidding on advertised Lot(s) will be accepted up until one (1) second prior to the closing time for each Lot, subject to our right to extend the **“Fall of the Hammer”** in accordance with Clause 12.6. No bids can be accepted after this time.
- Note:** Due to variations in internet connection speeds, we recommended that bids be placed no later than five (5) seconds prior to the closing time for each lot, to ensure that your bid is received in time, and is accepted and confirmed by our system.
- 12.6 If a Bid is placed in the final twenty (20) seconds before the Fall of the Hammer on any Lot, the Auction will automatically be extended for an additional twenty (20) second period. This process will continue until such time as the final twenty (20) seconds elapses without a Bid being placed on that Lot.

- 12.7 All Lots receive a minimum of one (1) minute in the Virtual Sales Ring. Lots will only be auctioned in numerical order, and a Lot will only enter the Virtual Sales Ring once the preceding Lot has been completed, inclusive of any time extensions.
- 12.8 In Australia, a Vendor may place a Bid on any Lot which they have listed. However, should the Vendor be the Auction Winner of their own Lot(s), the Vendor shall be obligated to pay Sales Commission, if applicable, calculated in accordance with Clause 31. In such circumstances, the Vendor must pay the full Purchase Price to us in accordance with the standard purchase process. Applicable Sales Commission will then be deducted from the sales proceeds. Any documentation held by us will be released back to the Vendor with the balance of sale proceeds.
- Note:** In New Zealand, and other international jurisdictions, Vendors are not permitted to bid on their own Lot(s).
- 12.9 Without limiting any other conditions within this Agreement, you must not:
- a) Bid on any Lot(s) on the Site, unless you have the financial ability to pay the full Bid price for each Lot(s) (including any applicable GST amounts) in accordance with the payment terms specified at 14.2(c); and
 - b) place a false Bid, hinder another Bidder, or in any way intentionally disrupt an Auction.
- 12.10 We may refuse to accept any Bid that, in our opinion, is not in the best interests of the Auction, Vendor or the welfare of the animal. In the event of a disputed bid, we shall be the sole arbitrator and our decision will be final.

Note For Bidders located outside Australia & New Zealand:

Bidders located outside of Australia & New Zealand need to telephone Bloodstock Auction Pty Ltd (Phone: +61 2 4560 1000) in order to be verified. If contact is not made prior to bidding, Bloodstock Auction Pty Ltd reserves the right to cancel or withdraw Bids at its discretion.

13 Passing In

- 13.1 Where the Vendor has set a Reserve Price, if the highest bid does not meet this Reserve Price at the Fall of the Hammer, the Lot(s) shall be said to have been passed in from Auction (“**Passed In**”).
- 13.2 Should a Lot(s) be Passed In, the Lot(s) will be made available for negotiation to Members of the Site for purchase at the Reserve Price, or at an agreed bona fide offer that is accepted by the Vendor, for a further period of thirty (30) days. Sales Commission will be payable (Refer to Clause 31) to Bloodstock Auction Pty Ltd should a sale occur within the thirty (30) day period.

14 Purchasing Horses

- 14.1 Subject to any Reserve Price set by the Vendor, at the Fall of the Hammer, the Lot(s) will be deemed to be sold to the highest Bidder ("**Purchaser**" or "**Auction Winner**") and the highest Bid (as well as, any applicable GST) will be said to be the "**Purchase Price**".
- 14.2 At the Fall of the Hammer the Purchaser:
- a) subject to Clause 15 (Scoping), will be deemed to have entered into an unconditional contract for sale to purchase the Lot(s),
 - b) will not have a cooling-off period,
 - c) must pay the amount specified in the Auction listing immediately (or upon the Satisfaction of Conditions, as defined in Clause 16),
 - d) must execute and provide all such documents as the Vendor or we require (acting reasonably); and
 - e) must provide a copy of your proof of identity issued by a government authority, showing your name and address (Drivers Licence or other accepted form of identification).
- 14.3 In the event that there is any interference with the operation of any Auction, any decision we make as to the Auction Winner will be final and binding on all parties.
- 14.4 Once a Lot(s) has been sold under Auction conditions, no further negotiations can or will be conducted by Bloodstock Auction Pty Ltd in relation to that sale.

15 Special Conditions

- 15.1 In the case of a Lot(s) being purchased and that Lot(s) is a Racehorse, Unraced or a Yearling, a Purchaser may elect at Fall of the Hammer, to make the Sale conditional upon the satisfactory completion of an Upper Respiratory Laryngoscopic Evaluation (**Scope**) of the Lot(s). Such election must be made to our office by the Purchaser within twenty-four (24) hours of the Fall of the Hammer and subsequently the Purchaser shall have forty-eight (48) hours from the Fall of the Hammer to complete such Scope subject to the following conditions:
- 15.2 Any scope must:
- a) be completed by a suitably qualified veterinarian,
 - b) be arranged by the Purchaser; and
 - c) take place at a location mutually agreed between the Purchaser and the Vendor (or in the case where the parties cannot agree, at the property in which the Lot(s) resided at the Fall of the Hammer).
- 15.3 The Purchaser shall be liable for any costs associated with the scoping of the Lot(s), including all veterinarian fees, as agreed between the parties.
- 15.4 In the event that:
- a) the Vendor refuses to make the Lot(s) available to the Purchaser for scoping, the sale can be immediately cancelled at the discretion of the Purchase, and the Vendor shall remain liable to pay any applicable Sales Commission due to us; or

- b) the Purchaser does not complete the Scope within forty-eight (48) hours of the Fall of the Hammer, the Purchaser will be taken to have waived the condition that a scope be completed, and the sale will then be deemed to be unconditional.
- 15.5 Should any Lot(s) return an unsatisfactory Scope as identified by the qualified veterinarian who conducted the Scope in a written report in accordance with Clause 15.6), then subject to Clause 15.6 the Purchaser will be given the option to cancel the sale, in which case, we will not be entitled to any Sales Commission.
- 15.6 A veterinary surgeon is of the opinion that the horse has any of the following conditions:
- a) Laryngeal neuropathy (grossly deficient abductor function of one or both arytenoid cartilages, (Grades 4 and 5 Lane Bain Fallon Proceedings 1993),
 - b) Rostral displacement of the palatopharyngeal arch,
 - c) Epiglottic entrapment,
 - d) Persistent dorsal displacement of the soft palate,
 - e) Arytenoid chondritis or arytenoid chondropathy,
 - f) Subepiglottic Cyst(s),
 - g) Cleft Palate; or
 - h) Any airway lesion causing significant airway obstruction resulting in exercise intolerance and this or these have not been disclosed prior to the horse being offered then the Purchaser may cancel the sale in accordance with Clause 15.5.
- 15.7 Should the Lot(s) return a satisfactory Scope, (Lanes Grade 1,2 or 3, as identified by the qualified veterinarian who conducted the scope in accordance with Clause 15.6), the sale will be deemed to be unconditional, and the Purchaser will have no right to cancel the Sale (unless otherwise stated in this Agreement).
- 15.8 **Windsuckers and Wobblers.** If the Vendor fails to make the disclosure required at Clause 24.4(d) ii, iii, and the Lot(s) proves to be a windsucker or wobbler within seven (7) Days from the completion of the auction, then subject to the Purchaser producing clear video evidence of the Lot(s) windsucking (with branding clearly visible), or a signed vet certificate to certify that the Lot(s) is a windsucker or wobbler, the Purchaser may elect to cancel the sale by notice in writing.

If a Lot(s) proves to be a Windsucker or Wobbler in accordance with Clause 15.8, and the sale is cancelled, the vendor will be responsible for refunding the full amount sale proceeds to Bloodstock Auction Pty Ltd and also arrange for the collection of the Lot(s) from the purchaser's location, and for any costs associated with the collection of the Lot(s), unless an alternate agreement is reached between the vendor and the purchaser.

16 Satisfaction of Conditions of Sale

- 16.1 The sale of any Lot(s) shall become unconditional:
- a) if the Purchaser has not elected for the sale be conditional upon successful completion of a Scope, at the Fall of the Hammer, or

- b) if the Purchaser has elected (by notifying Bloodstock Auction Pty Ltd within 24-hours from the Fall of the Hammer) for the sale be conditional upon successful completion of a Scope, and:
- i. a successful Scope is completed within 48 hours of the Fall of the Hammer, in accordance with Clause 15,
 - ii. the Purchaser then fails to undertake a scope in accordance with Clause 15, on the conclusion of the forty eighth (48th) hour from Fall of the Hammer.

17 Payment

- 17.1 Any amounts payable under the Auction must be paid in accordance with the Terms and Conditions of this Agreement to Bloodstock Auction Pty Ltd directly. Under no circumstances shall any amounts that are due to be paid to Bloodstock Auction Pty Ltd be paid by the Purchaser to the Vendor directly.
- 17.2 Bloodstock Auction Pty Ltd reserves the right to retract or withdraw any electronic notifications at its sole discretion as per our Terms and Conditions.

18 Settlement

- 18.1 The sale of any Lot(s) to the Purchaser will not be finalised until the Purchase Price has been paid in full by the Purchaser to us in accordance with Clause 19.
- 18.2 At Settlement, sale proceeds will be forwarded to the Vendor, and we will release the registration papers and ID Card for the Lot(s) to the Purchaser, provided that the Vendor has fulfilled all obligations under Clauses 24 & 26.

19 Payment Methods – Purchasers

- 19.1 The following payment methods are accepted:
- a) Cash Deposit/Bank Transfer into Bloodstock Auction Pty Ltd.'s trust account,
 - b) Credit/Debit Card (Visa, MasterCard),
 - c) Transactions processed through the Site.
- 19.2 A 2% surcharge will apply to all credit/debit card transactions, however no surcharge will apply to payments made by cash deposit or using internet banking.
- a) In accordance with Privacy Legislation all credit cards details taken over the phone will be immediately destroyed once processed.
- 19.3 Direct deposits for the Purchase of Lot(s) should be made into the accounts listed below, with deposits made into the account applicable to the horses' physical location:

Australian Horse Purchases

Acc Name: Bloodstock Auction Pty Ltd
 BSB: 012 491
 Acc No: 400 145 612
 Branch: Bella Vista

New Zealand Horse Purchases

Acc Name: Bloodstock Auction Pty Ltd
 Acc No: 06 0193 0649 497 02
 Branch: Auckland

Note: This account should not be used by vendors to deposit amounts for listing fees or any other such fees.

20 Acceptance of Risk

- 20.1 From the moment of a final and successful Winning Bid, at the completion of the auction, sole risk and responsibility for the Lot(s) shall be borne by the Purchaser. It is at the Purchaser's discretion should they elect to purchase comprehensive insurance to cover any Lot(s) for the full insurable value against all risks.

SELLING LOT(S)

21 Appointment

- 21.1 By listing any Lot(s) on this Site you authorise Bloodstock Auction Pty Ltd to act as your exclusive agent:

- a) to list and sell the Lot(s) on consignment at Auction, and
- b) in the case where a Lot(s) has Passed In and subsequently sold through Bloodstock Auction Pty Ltd, by private treaty, during the thirty (30) day period from the Fall of the Hammer.

Note: Normal Sales Commission rules apply for the 30-day period following the Fall of the Hammer (Refer to Clause 31).

- 21.2 The appointment under Clause 21.1 shall commence from the date that a Lot(s) is submitted by the Vendor to us for listing on the Site to the date when all obligations of either party in respect to the listing of the Lot(s) on the Site have been discharged, unless earlier terminated in accordance with the terms of this Agreement.

22. Exclusivity

- 22.1 You understand that by listing any Lot(s) for sale on the Site, you are restricted from listing that Lot(s) for sale by any other means until the Fall of the Hammer, and in the case where a Lot(s) is Passed In, for a thirty (30) days period after the Fall of the Hammer.

Note: Normal Sales Commission rules apply for the 30-day period following the Fall of the Hammer (Refer to Clause 31).

23. Guarantees

- 23.1 When listing horses as a Vendor, you guarantee that:
- a) you are the legal owner of the Lot(s), or are authorised by the legal owner to list the Lot(s) for sale in the Auction,
 - b) you have good title to the horse and are offering the Lot(s) for sale free of any encumbrances, which may include any outstanding fees, including but not limited to, training, agistment and service fees,

- c) the Purchaser is able to obtain quiet possession of the Lot(s) on completion of the Purchaser's obligations in accordance with these Terms and Conditions,
- d) the Lot(s) is not affected by illegally administered drugs and is of sound health; and
- e) the description and other information provided in respect of the listed Lot(s), and any associated advertising of the Lot(s), on this Site or any other site is true and correct in all respects.

24 Listing Lot(s) for Auction

24.1 Bloodstock Auction Pty Ltd reserves the right to accept, decline or withdraw a listing at its absolute discretion.

24.2 You must be a registered Member to list any Lot(s) for sale on this Site.

24.3 You must fill out all fields when listing a Lot(s) for Auction on the Site.

24.4 All information provided by you to us at any time must be true, correct and constitute a full disclosure of all matters that a Purchaser would reasonably require to form an accurate opinion of the Lot(s), including but not limited to information on whether the Lot(s):

- a) is a stallion, colt or a cryptorchid (rig),
- b) is pregnant (including details of any Live Foal Guarantee); if listing a pregnant mare, it is highly recommended that a pregnancy certificate issued by a registered veterinarian be provided, that is dated no more than fourteen (14) days prior to the date of the Fall of the Hammer, confirming that the mare has tested positive to a pregnancy test.

Note: At the time of purchase or at collection (provided that collection occurs in accordance with Clause 33), if a horse that has been offered and advertised as being in foal, is found not to be in foal, then the purchaser will be entitled to request for the sale be cancelled.

- c) has a foal at foot,
- d) has any health conditions including but not limited to:
 - i. impaired vision,
 - ii. a Wobbler, has string halt, or other substantial tendon, muscle or neurological damage,
 - iii. windsucker,
 - iv. is a Roarer, or suffers from any known Respiratory Problems,
 - v. any bone fractures or chips,
 - vi. any other conditions affecting racing soundness,
 - vii. the horse is suffering, or has in the past suffered from, founder, colic surgery or laminitis,
 - viii. the horse having been fired and/or de-nerved,

- ix. the horse having undergone any form of surgical procedure, including but not limited to surgery on joints, respiratory tract or abdominal surgery,
 - x. has any history of any previous health conditions,
- e) is currently being treated with any medication, including any steroid, sedative or pain suppressant,
 - f) requires any ongoing veterinary treatment,
 - g) is currently subject to any bans, embargoes or other restriction (for bleeding, barrier behaviour or any other reason) imposed by any horse racing authority.
- 24.5 Lot(s) must be sold with all engagements, if any.
- 24.6 You agree that you are solely responsible for the listing of any Lot(s) on the Site and indemnify us in the event that there is any error, omission or inaccuracy in the listing for any Lot(s).
- 24.7 All listings submitted on the Site are subject to approval by us. We reserve the right to review any listing prior to Auction to ensure compliance with the Member Agreement and shall have no obligation to list any Lot(s) which we consider are in breach of this Member Agreement.
- 24.8 **Setting A Reserve:** If you would like to make the sale of the Lot(s) subject to a Reserve, you must indicate the amount of the Reserve Price at the time of listing.
- 24.9 When listing a Lot(s) you agree that **during** the Final Countdown to the Fall of the Hammer we will **not** modify Reserves. You also acknowledge and agree that:
- a) Changes to Reserves can be made during the 5-day period in which the catalogue is live, with any change being made within a reasonable period by Bloodstock Auction after receiving the new Reserve.
Note: Changes to Reserves may not take immediate effect on the Site.
 - b) Reserves cannot be removed completely during the 5-day live catalogue period; however, Reserves may be reduced to the next incremental bid for your Lot(s) (Incremental Bids refer to Clause 12.3),
 - c) Once a Reserve for your Lot(s) has been met, no changes can be made,
 - d) Once the Final Countdown commences no changes to Lot(s) are permitted.

25 Listing Fee

- 25.1 You agree that a listing fee in the amount set out below (“Listing Fee”) shall apply to any Lot(s) listed on the Site and that, without exception, no Lot(s) shall be listed until such Listing Fee has been paid by the Vendor to us in full.

Any listing fee once submitted is not refundable. Listing Fees quoted in the below table are applicable for the Country in which the horse is located and are reflective of the local currency.

| Package | Listing Fee (Inc GST) – Currency is as per Horse Location |
|---------|---|
| Gold | \$550.00 |
| Silver | \$440.00 |
| Bronze | \$330.00 |

25.2 The following payment methods for Vendors are accepted:

- a) Cash Deposit/Bank Transfer into Bloodstock Auction Pty Ltd.'s bank account,
- b) EFT into Bloodstock Auction Pty Ltd.'s bank account, and
- c) Credit/ Debit Card (Visa, MasterCard) transactions processed through the Site.

25.3 A 2% surcharge will apply to all credit/debit card transactions however no surcharge will apply to payments made by cash deposit or using internet banking (In accordance with Privacy Legislation all credit cards details taken over the phone will be immediately destroyed once processed).

25.4 Listing Fee direct deposits to Bloodstock Auction Pty Ltd.'s Bank Account should be made to:

Horses Located In Australia

Name: Bloodstock Auction Pty Ltd
 BSB: 012 491
 Account No: 3897 33359
 Branch: Bella Vista

Horses Located in New Zealand

Name: Bloodstock Auction Pty Ltd
 Account No: 06 0193 0649 497 00
 Branch: Auckland

Note: This account should not be used by purchasers to deposit the purchase price (or any part thereof) for any Lot(s).

26 Documentation

26.1 Upon listing a Lot(s) for Auction, the Vendor must:

- a) provide evidence of the discharge of any security interest(s) or encumbrance(s) over the Lot(s), or a signed statement from the Vendor warranting that there are no security interest(s) or encumbrance(s) over the Lot(s). This includes any outstanding Stallion Service Fees, Foal Share Agreements, etc.
- b) If listing a Broodmare, all mare returns must have been completed and Australian Studbook must be up to date and correct,
- c) If Listing an Unnamed horse or a Foal at Foot, ensure that Australian Studbook records are up to date,

- d) provide all documentation or veterinary reports referred to in the description of the Lot(s), or as reasonably required for a Purchaser to form an accurate opinion of the Lot(s) prior to bidding; and
- e) send using registered mail, all registration papers and ID Card, DNA Kit (if applicable) for the Lot(s) **and fully executed transfer of ownership documents** (executed by all Owners of the Lot(s)) to the following address:

Horses Located In Australia

Bloodstock Auction Pty Ltd
PO Box 231
North Sydney, NSW 2059

Horses Located In New Zealand

Change of Ownership Forms
must be emailed to:
admin@bloodstockauction.com

26.2 Should the Vendor fail to provide the required transfer of ownership documentation (or if the provided documents are not fully completed) prior to the commencement of any Auction in accordance with Clause 26.1, Bloodstock Auction Pty Ltd may (at our sole discretion) withdraw the affected Lot(s) from the Auction, or if post sale, Settlement will be withheld from the Vendor until such time that all required documentation has been received by us.

26.3 It is the Vendor's responsibility to ensure that all required transfer of ownership documentation, including the ID Card, is received by us. Bloodstockauction.com is not responsible or liable for any documentation that fails to arrive at our office, nor for any failure by Australia Post or any other carrier to complete delivery. In such circumstances, the Vendor will be responsible for locating the documentation, or initiate the process to obtain a replacement ID Card and documentation and accept the cost for such replacement.

Should an ID Card not be received by our office within a reasonable time period after the completion of the auction, in order to settle the sale, Bloodstock Auction Pty Ltd is authorised to withhold \$176.00 (inclusive of GST) from sale proceeds to arrange for a duplicate ID Card to be prepared by Australian Stud Book and issued to the Purchaser.

26.4 Notwithstanding Clause 26.2, Bloodstock Auction Pty Ltd shall be authorised on behalf of the Vendor to complete the registration and transfer documentation in the name of the Purchaser, and to do all such actions necessary to affect the transfer of title to the Lot(s). The Vendor and the Purchaser must execute all required documents and do such acts necessary to complete the sale and transfer of title to the Lot(s).

26.5 In addition to Clause 26.2, in the event that a Broodmare is sold, and its Australian Stud Book records are not up to date, Bloodstock Auction Pty Ltd may, at its discretion, withhold settlement from the vendor until it is satisfied that all outstanding mare returns have been lodged, and evidence of such lodgement has been provided to Bloodstock Auction Pty Ltd, and or the purchaser.

27 Date of Listing

27.1 Clauses 24, 25 and 26 must be satisfied in full by any prospective Vendor, prior to the Lot(s) being accepted for Auction on the Site, unless otherwise agreed by us.

Satisfaction must be by 7:00pm (Sydney Local Time) for Australia and New Zealand on the Thursday that is five (5) days prior to the relevant Auction's Final Countdown, as indicated in Clause 9.1.

28 Appointment of Power of Attorney

- 28.1 Each Vendor irrevocably appoints the Director and officer of Bloodstock Auction Pty Ltd as their true and lawful attorney with full power to do all such things, to take all such action, to sign and execute all such documents (including but not limited to Registration Papers), and to give such instructions as may be necessary or in our opinion desirable for the purpose of enabling us to give full effect to this Agreement and hereby agrees to ratify and affirm anything done by us as such attorney.
- 28.2 In Particular, the purchaser authorises us under Clause 28.1 to enter into on our behalf or the purchaser's behalf a binding contract with the Vendor, the terms of which will include details of the Lot(s), the purchase price and the due date for payment. A copy of the contract will be provided after the completion of the sale.

29 Making a Lot(s) Available for Inspection

- 29.1 It is recommended that Vendors allow Purchasers to conduct reasonable inspections of the Lot(s) prior to the Fall of the Hammer, including but not limited to visual inspections and veterinary examinations (including X-rays, scopes, blood testing).

Any arrangements and costs incurred for inspection of the Lot(s) must be arranged between the Purchaser and the Vendor directly.

30 Withdrawing a Lot(s) from an Auction

- 30.1 Lot(s) are not able to be withdrawn from the Auction once listed on the Site, unless a certificate, signed by a qualified veterinarian is produced, evidencing injury to, or the death of the Lot(s). The certificate must be presented to us prior to any Lot(s) being withdrawn from the Auction.
- 30.2 Under no circumstances can a Vendor withdraw a Lot(s) during the Final Countdown.
- 30.3 Bloodstock Auction Pty Ltd may, at its discretion, withdraw a Lot(s) from sale at any time, for any reason.
- 30.4 If a Lot(s) is withdrawn from the Auction, the Vendor will remain liable for any Listing Fees in relation to the entry of the horse into the auction.

31 Sales Commission

- 31.1 You agree that all Sales Commissions and monies owing under any circumstances on sold Lot(s) are payable by you to Bloodstock Auction Pty Ltd.
- 31.2 You authorise us to deduct the Sales Commission amounts detailed in the table below, from any amounts collected from Purchasers following the successful completion of any Auction on the Site, or any successful sale made during the thirty (30) Day period after the Fall of the Hammer.

| Value of Highest Bid (Excluding GST) | Sales Commission Payable |
|---|--------------------------------|
| \$4,999 (\$AUD) or less (No Reserve Price Set by the Vendor) | 5% of the total Purchase Price |
| \$4,999 (\$AUD) or less (If Reserve Price Set by the Vendor) | 5% of the total Purchase Price |
| \$5,000 (\$AUD) and greater (Reserved or Unreserved) | 5% of the total Purchase Price |

32 Payment upon Settlement and Delivery

- 32.1 Bloodstock Auction Pty Ltd will pay to the Vendor the Purchase Price less any Sales Commission payable under Clause 31, within five (5) business days of Settlement (please refer to Clauses 18, 24 & 26).
- 32.2 Bloodstock Auction Pty Ltd reserves the right to deduct any outstanding monies from a Vendor or affiliated entities out of any Lot(s) that is sold. These funds can be dispersed at the discretion of Bloodstock Auction Pty Ltd if money is outstanding from any Auction.
- 32.3 We will make the payment to the Vendor referred to in Clause 32.1, by EFT into the account nominated by the Vendor at time of listing the relevant Lot(s).
- 32.4 In circumstances where the Purchaser fails to pay the Purchase Price, we will take such action as we deem necessary to pursue the Purchaser for payment, however, you acknowledge that we shall have no liability to make any payment to the Vendor in circumstances where we are unable to recover the Purchase Price from the Purchaser.
- 32.5 Bloodstock Auction Pty Ltd is entitled to retain title documents for a Lot(s) until the Purchase Price and all other moneys owed by a Purchaser to the Vendor or Bloodstock Auction Pty Ltd have been paid. Where the Vendor buys back a Lot, Bloodstock Auction Pty Ltd may retain the registration documents until all commissions and other moneys owed by the Vendor have been paid.

COLLECTION OF LOT(S)

33 Collection of Lot(s)

- 33.1 The Purchaser shall, in the absence of any other arrangement with the Vendor:
- be responsible for arranging all necessary transport, and
 - collect the Lot(s) within five (5) days from the Fall of the Hammer.
- 33.2 The Vendor shall co-operate with the Purchaser to allow the collection and the transportation of any Lot(s) duly purchased through the Site.

- 33.3 The Vendor agrees to keep, feed and maintain the Lot(s), to the standard at which the Lot(s) was advertised at Auction, up to the Fall of the Hammer and after the completion of a successful Auction:
- a) at no charge to the Purchaser, for a period of five (5) days from the Fall of the Hammer; and
 - b) at a reasonable agistment rate, not exceeding \$100.00 plus GST per day, for any period commencing on the sixth (6) day after the Fall of the Hammer.
- Note:** Agistment charges should only be applied in circumstances where the collection of the horse has been delayed by acts or omissions of the Purchaser.
- 33.4 The Vendor must not release the Lot(s) to the Purchaser until the full Purchase Price has been paid directly to Bloodstock Auction Pty Ltd by the Purchaser. Should the Vendor breach this term and release the Lot(s) to the Purchaser prior to full payment, the Vendor agrees to become liable for any amounts (such as Sales Commission) owing to Bloodstock Auction Pty Ltd, and assumes sole responsibility for the collection of any monies from the Purchaser.
- 33.5 The Vendor shall bear the sole risk and responsibility for a Lot(s) until risk in the Lot passes to the Purchaser. In accordance with Clause 10, even though the vendor is obligated to maintain the Lot(s), to the standard at which the Lot(s) was advertised at Auction, should a Lot(s) sustain an injury after the Fall of the Hammer, the Purchaser will be liable for any associated veterinary costs, unless agreed otherwise.
- 33.6 In circumstances where a purchaser pays for a Lot(s) and fails to make necessary arrangements for the collection of the Lot(s) within fourteen (14) days, or is otherwise not contactable, the vendor shall be permitted to re-list the Lot(s) for sale in a subsequent Auction. In such circumstances, Bloodstock Auction Pty Ltd will retain the original sale proceeds, and these proceeds will be used to cover any difference in sale price, and also be applied to cover (or partially cover) agistment costs incurred due to the relisting of the Lot(s).
- 33.7 Notwithstanding Clause 33.5, should a Lot(s) materially change to that which was advertised and offered within the 5-day period post auction and prior to collection (Example: the death of a Foal of Foot), or has otherwise not been adequately maintained, Bloodstock Auction Pty Ltd reserves the right to cancel the sale at its discretion prior to any settlement being reached.

GOODS AND SERVICES TAX

34 GST

- 34.1 Words or expressions used in this Clause 34 in relation to Australia have the meanings given to them in the A New Tax System (Goods and Services Tax) Act 1999 (Cth) and related imposition Acts or, if not so defined, then those meanings given to them in the Competition and Consumer Act 2010 (Cth). In New Zealand the Goods and Services Tax Act 1985

- 34.2 All bids made on this Site are made exclusive of GST. Where the Vendor of a Lot is registered for GST ("GST Supplier") and the Lot is sold, an amount equal to any GST payable by the GST Supplier in relation to that supply ("GST Amount") will be added to the Purchase Price and shall become due and payable by the Purchaser ("GST Recipient"). We shall be entitled to rely on all representations made by a Vendor regarding their GST status, and Purchasers are advised to make their own enquiries as to GST exemption requirements.
- 34.3 GST is also applicable on all Services provided by us through this site, in which case we shall be the "GST Supplier" and the Vendor shall be the "GST Recipient" and all Commission payments shall be deemed to be "GST Amounts".
- 34.4 The GST Amount must be paid at the same time and in the same manner as making payment of any monetary consideration on which the GST is calculated.
- 34.5 The GST Recipient's obligation to pay the GST Amount is conditional upon receipt of a tax invoice that complies with the relevant law. We shall, on behalf of the GST Supplier must do all other things reasonably requested by the GST Recipient to enable the GST Recipient to obtain any input tax credit to which it is entitled.
- 34.6 If an Adjustment Event occurs in respect of a Taxable Supply described in this Clause 34, an adjustment must be made to any amount paid pursuant to this Clause 34. In such circumstances we shall issue, on behalf of the GST Supplier an adjustment note for the Adjustment Event.
- 34.7 Any reference in the calculation of Consideration, or of any indemnity, reimbursement, or similar amount, to a cost, expense or other liability incurred by a Party, must exclude the amount of any Input Tax Credit entitlement of that Party in relation to the relevant cost, expense or other liability.
- 34.8 A Party will be assumed to have an entitlement to a full Input Tax Credit unless it demonstrates otherwise prior to the date on which the Consideration must be provided.

LIABILITY, INDEMNITY, RELEASE AND EXCLUSIONS

35 Liability

- 35.1 To the extent permitted by law the aggregate of our liability to you is limited to an amount not exceeding \$1,000.00 (one thousand dollars). Under no circumstances shall we be liable for any indirect or consequential losses. We provide no advice, nor do we conduct any due diligence concerning any Lot for sale on this site.

36 Indemnity

- 36.1 You agree to indemnify us, and hold us harmless, for and against all expenses, costs, liabilities, claims, actions, proceedings, damages, judgments and losses of any kind whatsoever (including consequential and economic losses, property loss or damage, and damages for injury, including personal injury and or death) incurred or suffered by you arising out of, caused by, attributable to, or resulting from:

- a) any act or omission by you;
- b) your negligence; or
- c) your non-compliance with these Terms and Conditions.

37 Release

37.1 To the extent permitted by the law, you agree to release, us and our current and former officers, employees and agents from all liabilities, claims, actions, proceedings, damages, judgments and losses of any kind whatsoever (including consequential and economic losses, property loss or damage, and damages for injury, including personal injury and or death) which you may incur or suffer arising out of, caused by, attributable to, or resulting from:

- a) us performing any obligation or enforcing any right under the Terms and Conditions;
- b) the act or omission of any Vendor, Bidder, Purchaser or third-party Member of the Site; and
- c) the provision of the Services by us.

38 Exclusions

38.1 To the extent permitted by law, all conditions, warranties, guarantees, rights, remedies, liabilities, and other terms implied or conferred by statute, custom or the general law that impose any liability or obligation on us are excluded under this Member Agreement.

38.2 In relation to any release and/or indemnity given in favour of us, the provisions of Part 4 the Civil Liability Act 2002 (NSW), Part 9A of the Civil Liability Act 2002 (Tas) and Part 1F of the Civil Liability Act 2002 (WA) do not apply.

38.3 Despite the above, nothing contained in these Terms and Conditions excludes, restricts or modifies the application of any provision, the exercise of any right or remedy, or the imposition of any liability under the Australian Consumer Laws or any international consumer protection legislation, provided that, to the extent that such law permits us to limit our liability, then our liability is limited to supplying the Services again or payment of the cost of having the Services supplied again.

DISPUTES

39 Disputes

39.1 Both Vendor and Purchaser agree that any dispute arising between them must be treated confidentially and may not be publicised in any way, shape or form on electronic media or social media platforms such as Facebook, Instagram, Twitter, or the like.

39.2 In the event of any dispute arising prior to Settlement, the aggrieved party shall contact Bloodstock Auction Pty Ltd immediately in which case we will be appointed as the

arbitrator of the dispute. In determining the dispute, all parties agree to provide us with such evidence as we may reasonably require in order to mediate and settle the dispute. We may settle any dispute in such manner as we see fit (acting reasonably).

39.3 Any decision reached by us in relation to the dispute, acting in our sole discretion shall be final and binding on all parties. A decision may include, but not be limited to:

- a) upholding the terms of the Auction;
- b) seeking from, or awarding damages to, either the Vendor or the Purchaser;
- c) cancelling the sale, or re-offering the Lot(s) for sale;
- d) In the event of any dispute arising after Settlement, such dispute must be resolved between the Vendor and Purchaser directly (and between those parties only).

40 Failure to Pay

40.1 Full payment of the Purchase Price must be made by the Purchaser immediately upon the Fall of the Hammer or Satisfaction of Conditions (as applicable).

40.2 Without limiting our rights, if the Purchaser fails to pay any monies owing to us, and cleared funds are not received within forty-eight (48) hours of the Fall of the Hammer or Satisfaction of Conditions (as applicable), we will contact the Vendor and the Vendor may (in its sole discretion) elect to:

- a) **Seek Payment of the Purchase Price** (including any costs associated with late payment, including but not limited to agistment costs) from the Purchaser directly, in which case we shall have no further obligations in respect of collection of any monies from the Purchaser and the Sales Commission shall become immediately due and payable by the Vendor to us. Payment should be made in accordance with Clause 25;
- b) **Cancel the Sale** (effective from the fifth (5th) day after the Fall of the Hammer), with the Vendor being entitled to re-list the Lot for Auction on the Site, in which case the Sales Commission will be payable to us (Refer to Clause 31).

40.3 Should the Vendor elect to cancel the sale in accordance with Clause 40.2(b), the Vendor may elect to re-list the Lot(s) for Auction on this Site. In such a case, if the Vendor subsequently sells the Lot(s) for an amount which is less than the Purchase Price achieved in the first auction for the Lot(s), the Vendor may be entitled to recover from the Original Purchaser the difference between the Purchase Price for the first Auction and the Purchase Price for the second Auction, except to the extent that the Lot(s) has materially changed from the first Auction to the second Auction (for example, due to sustaining an injury).

40.4 In the event that a Purchaser fails to pay for a Lot(s) within the required timeframe (Clause 40.1 and 40.2), and is unable to be contacted by Bloodstock Auction Pty Ltd or the vendor, Bloodstockauction will automatically cancel the purchasers membership to the site, and forward their details to the appropriate racing authority to restrict or ban the individual(s) from future activity within the racing industry.

In certain circumstances, non-payment matters may also be forwarded to local police and racing authorities for further investigation. Any action taken by us will not prevent a Vendor from exercising their rights under Clause 40.3.

41 Syndications & Stallion Directory

41.1 Bloodstock Auction Pty Ltd provides these services to listing parties, we are not responsible for errors or omissions in listings whatsoever, all listings are the sole responsibility of the horse's owner, syndicator, or stud master.

Questions, searches, and financial arrangements are made directly through the listing party and are not the function or responsibility of Bloodstock Auction Pty Ltd. Fees for listing on Syndications or the Stallion Directory are available by contacting Bloodstock Auction Pty Ltd.

GENERAL

42 Personal Information and Intellectual Property

42.1 You consent and authorise us to:

- a) Collect and use your personal information as defined in the (Australian Privacy Act 1988 (Cth) and (New Zealand Privacy Amendment Act 2013) for the provision of the Services;
- b) Disclose your personal information to a Vendor in the event that you are the Auction Winner of a Lot(s);
- c) Disclose your Personal Information to a Purchaser if required, in the event that your Lot(s) sell at Auction;
- d) Unless otherwise advised, use your personal information for promotional, marketing, publicity, research and profiling purposes including publishing your full name and stud name (if applicable), along with the Purchase Price of any Lot(s) on the Site or such other places as we reasonably determine.
- e) Provide Racing NSW (or any other PRA upon formal request) with your contact information should you be a vendor or purchaser of a thoroughbred horse that is domiciled in NSW or other such state where such information has been requested. Domiciled means the location that a thoroughbred horse has resided for 50% or more of its life.
- f) Disclose the reserve price, disclaim, and or discuss the price. Bloodstock Auction Pty Ltd on all occasions has the right to disclose the price a Lot sold for at Auction or after Auction at any time as so required by Bloodstock Auction Pty Ltd.
- g) All materials provided to us may (as part of our commercial business practices) form part of our copyright materials and you (as a Member) agree to this use,

providing us with a perpetual irrevocable licence to use all materials from you, for our commercial business needs.

Force Majeure

43.1 We are not responsible for any loss arising out of any occurrences or conditions beyond our control, including but not limited to any flood, war, terrorism, earthquake, act of god, general strike or any other event or thing outside either party's control including any change in itinerary or schedule which precludes us from performing our obligations under these Terms and Conditions.

43 Survival

44.1 Any indemnity or any obligation of confidence under this Agreement is independent and survives termination of the Terms and Conditions. Any other term by its nature intended to survive termination of the Agreement survives the termination of the Agreement.

44 Severability

45.1 Part of, or all of any Clause of this Agreement that is illegal or unenforceable will be severed and the remaining Terms and Conditions will continue to remain in force.

46 Waiver

46.1 A party does not waive a right, power or remedy if it fails to exercise or delays in exercising the right, power or remedy. A waiver of a right, power or remedy must be in writing and signed by the party giving the waiver.

47 Governing Law

47.1 This Agreement is governed by the laws applicable in New South Wales and New Zealand. All parties irrevocably and unconditionally submit to the non-exclusive jurisdiction of the courts of that state and country.