

# Nutrien Equine Standardbred Terms and Conditions

## IMPORTANT PLEASE READ

All bids and offers to purchase shall be treated as offers made upon the following Conditions of Sale and all persons attending the sale. Or bidding at the sale are deemed to have notice of such Conditions of Sale.

### CONDUCT OF SALE

- 1.1 Nutrien may appoint a person or persons as auctioneers to carry on sales under these terms and conditions and that person or persons must carry out the functions set out these terms and conditions and holds the authority which is contained in the document.
- 1.2 All auctions shall be conducted subject to these terms and conditions.
- 1.3 All bidders must register with the auctioneer prior to the commencement of the Sale.
- 1.4 The Purchaser must not be an owner, either by syndicate or part owner who:
  - 1.4.1 Cannot own an interest in a standardbred horse under the Australian Harness Racing Rules; or
  - 1.4.2 Is a TAB Competing Wagering Entity or a person who will or may reasonably engage in any commercial arrangements with a Competing Wagering Entity in connection with the Eureka.
- 1.5 For the purposes of clause 1.4.2, a TAB Competing Wagering Entity means:
  - 1.5.1 any person who is a wagering service provider other than TAB or a related body corporate of TAB; and
  - 1.5.2 any person for whom a substantial part of their revenue is derived from promoting or supporting wagering service providers other than TAB or a related body corporate of TAB, including but not limited to mypunter.com, punters.com.au and g1x.
- 1.6 The auctioneer and/or the Consignor has the absolute discretion to reject the registration of any persons or entities including, without limitation, where the bidder or any persons on whose behalf a bidder may be acting:
  - 1.6.1 has committed an offence against the *Racing Act 2002* (Qld) or the *Racing Integrity Act 2016* (Qld) or equivalent law in any other jurisdiction;
  - 1.6.2 is or has engaged in conduct which may, in the reasonable opinion of the Consignor, bring the Australian harness racing industry into disrepute;
  - 1.6.3 has committed an indictable offence, or a summary offence that involved dishonesty, fraud, stealing or unlawful betting, under any other act or repealed act;
  - 1.6.4 has committed an animal welfare offence; or
  - 1.6.5 breaches the eligibility requirements in clause 1.4 of these terms and conditions.
- 1.7 Subject to any reserve price, the highest bidder shall be the Purchaser.
- 1.8 **The Purchaser may purchase a maximum of one (1) Lot.**
- 1.9 Consignors must give written instruction to the auctioneer specifying the reserve price prior to commencement of the auction of their Lot(s). In the absence of such instructions, the auctioneer may sell without any reserve price or may withdraw the lot from the sale.
- 1.10 The Consignor shall have the right to bid personally or through an agent during the sale of each respective lot.
- 1.11 The Consignor shall not enter a bid personally, or through an agent/associate, at a price equal or above the Consignor's nominated reserve (unless the Consignor is only a part-owner of the lot and is bidding with the sole intention of buying out the other owner(s)).
- 1.12 The auctioneer may determine an upset price for each lot, with the sale upset set at \$0 (plus GST where applicable).
- 1.13 If a bid is disputed, or there is any other problem in relation to the Sale, the auctioneer will be the sole arbiter of the dispute and may settle the dispute or problem on whatever terms the auctioneer sees fit. The auctioneer's decision shall be final and binding on all parties.
- 1.14 The auctioneer shall have the right and absolute discretion to:

- 1.14.1 determine who is the Purchaser;
- 1.14.2 settle any dispute in such a manner as it thinks fit;
- 1.11.2 withdraw any Lot before or during the Sale without being required to provide a reason for the withdrawal;
- 1.11.3 advance the bidding as it thinks fit;
- 1.11.4 exclude any person from the Sale venue; or
- 1.11.5 refuse to acknowledge any bid without giving any reason therefore, and the Auctioneer's decision shall be final and binding upon all persons;
- 1.11.6 bid as an Agent on behalf of a principal.
- 1.11.7 Reject the bid of an unregistered buyer and re-offer the lot for sale.

1.15 All sales are made at the final bid accepted by the Auctioneer in Australian currency dollars.  
(Any other bids displayed on any currency indicator board are displayed as a guide only)

**UPSET PRICE: \$0 (plus GST)**

**CONSIGNOR'S OBLIGATIONS**

- 1.16 The Consignor shall be responsible for the accuracy of any statement, description or particular, relating to the lot available on the Racing Queensland Website and from the Sales Office on the day of the Auction and shall notify the Selling Agent or Auctioneer of any error or omission or inaccuracy prior to the Sale of the particular Lot.
- 1.17 The Consignor guarantees that the lot's identity and ownership is genuine.

**TITLE OF LOTS**

- 1.18 Notwithstanding any express or implied provisions hereof to the contrary and notwithstanding that delivery of any Lot may have been or possession obtained; the rights afforded in a Lot shall not be effected to the Purchaser until:
  - 1.18.1 all monies payable by the Purchaser to Racing Queensland pursuant to these Conditions of Sale have been received by the Auctioneer and all bills of exchange tendered in payment of such monies have been honoured; and
  - 1.18.2 the Slot Holder Agreement has been executed by the Purchaser and provided to the Sales Day office staff.

**DEFAULT BY PURCHASER**

- 1.19 In the event that the Purchaser breaches any of these conditions and fails to remedy such breach within reasonable time after receiving written notice from the Consignor or Auctioneer requiring such breach to be remedied, or all monies payable by the Purchaser to Racing Queensland pursuant to these Conditions shall not have been paid and liquidated by the due date for payment thereof, or where the Auctioneer has, in its discretion, agreed to an extension of the date for payment (in which event time shall be of the essence in respect of such extended date) and the same shall not have been paid and liquidated by such extended date; the Auctioneer of the Consignor may at the time without prejudice to any other rights or remedies which the Auctioneer or Consignor may have at law or in equity and without notice to the Purchaser:
  - 1.19.1 terminate the Sale of the Lot; and/or
  - 1.19.2 immediately retake possession of the Lot and for that purpose the Purchaser hereby irrevocably grants to the Auctioneer and/or Consignor full leave and licence to enter into or upon any premises controlled by the Purchaser upon which the Lot may be or may reasonably be believed to be situated and to use any reasonable force as may be necessary for the purpose of repossessing the Lot, or as the agent of the Purchaser to enter upon any other premises upon which the Consignor may enter for the purpose or repossessing the Lot, without notice to the Purchaser and without liability to the Purchaser or any person claiming under the Purchaser; and/or
  - 1.19.3 resell the Lot by auction or private Sale at the risk and expense of the Purchaser and if upon such a resale a lower price is obtained than that for which the Purchaser had agreed to buy the Lot, the Auctioneer or Consignor may recover the difference from the Purchaser as a debt due on demand together with interest from the date of Sale to the date of payment; and/or
  - 1.19.4 exercise such other rights and remedies as the Consignor or Auctioneer may have against the Purchaser in respect of the Purchaser's default including, without limitation, recovering from the

Purchaser all costs and expenses incurred in repossessing from the Purchaser any expense of Sale, re-Sale, livery, agistment and Auctioneer commission so incurred; and/or

- 1.19.5 retain any deposit or part payment to the extent of twenty-five percent (25%) of the purchase price for the benefit of the Consignor.

#### **RIGHTS AND LIABILITIES OF AUCTIONEER**

- 1.20 The Auctioneer is selling any Lot at the Sale as agent for the Consignor whose name and address is disclosed in the Sales catalogue in respect of the Lot. Further, particulars of the Consignor of any Lot shall be furnished by the Auctioneer immediately upon request.
- 1.21 Except, as otherwise expressly provided to the contrary, the Auctioneer has no liability or rights as principal in the capacity of a Consignor.
- 1.22 In the event of any dispute including without limitation, as to defects in title, misdescription, pedigree condition or otherwise, the Purchaser and the Consignor shall settle the matter between themselves and the Purchaser shall have no rights against nor return any Lot to the Auctioneer which acts in respect of the Sale merely as agent for the disclosed Consignor.
- 1.23 Notwithstanding any representation or action by the Auctioneer which may indicate the contrary, the Auctioneer shall be under no liability to the Consignor in respect of the Purchaser's failure to complete his purchase in accordance with these Conditions of Sale.
- 1.24 If the Auctioneer accounts to the Consignor for the purchase price or the balance of the purchase price owed to the Consignor less any monies owed by the Consignor to the Auctioneer, before the purchase price and other amounts payable by the Purchaser have been paid, title to the Lot shall thereupon pass to the Auctioneer, and the Auctioneer shall have the right and remedies under these Conditions as if it were the Consignor.
- 1.25 The description of all Lots has been provided by the Consignors, and the Auctioneer shall not be liable or responsible for any error whatsoever in the description of the Lot.
- 1.26 The rights and remedies of the Auctioneer under these conditions shall not be affected by reason of the selling commission and charges of the Auctioneer having been deducted by the Auctioneer from any payment made by the Auctioneer to the Consignor. As between the Purchaser and the Auctioneer, the Purchaser waives all rights of set off, if any, the Purchaser may have against the Consignors between the Purchaser and the Consignor.
- 1.27 The Auctioneer or its servants may sign the Sale Book or any Memorandum of Sale on behalf of either the Consignor or the Purchaser or both.
- 1.28 The Auctioneer reserves all rights to use or publish details of biddings, the identity of the Consignor and the Purchaser and all matters related to the sale of any Lot as it thinks fit.

#### **CONDITIONS AND WARRANTIES**

- 1.29 Other than for any express conditions, warranties or representations included herein, or as may be implied by Federal or State legislation (including the Trade Practices Act 1974 {Cwth}) and which may be excluded by agreement:
  - 1.29.1 all conditions, warranties and representations in respect of a Lot or a Sale are hereby excluded;
  - 1.29.2 no condition, warranty or representation is given or implied or any be inferred from any affirmation made at or before the Sale or any of the circumstances of the Sale; and
  - 1.29.3 the Purchaser acknowledges that, in making any purchase, he is relying solely on his own enquires and inspection, and that he has not relied or been induced by any statement or representation made by the Consignor or the Auctioneer or by any person purporting to act on their behalf.

#### **OCCUPATIONAL HEALTH AND SAFETY**

- 1.30 To the extent that a Consignor or a purchaser or their employees or agents may conduct any activities at the premises of the Sale Venue then that Consignor or purchaser shall be responsible, to the exclusion of the auctioneer, for establishing and observing appropriate occupational health and safety procedures and for complying with any relevant legislation provisions, in relation to those

activities.

- 1.31 A Consignor or purchaser conducting any activities on the premises of the Sale Venue does so at his own risk in all respects and must indemnify the auctioneer in respect of any claims for personal injury or damage to property which may be made against the auctioneer arising out of any such activities.

#### **ATTORNEY**

- 1.32 The Consignor and the Purchaser for the purpose of enabling the Auctioneer to give full force and effect to these Conditions, each irrevocably appoint the Auctioneer his true and lawful attorney, with full power in his name or in the name of the Auctioneer to do all such things, to take all such action, to sign and execute all such documents, and give such instructions for the purpose of these Conditions as may be necessary or in the Auctioneer's opinion desirable, and hereby agrees to ratify and affirm anything done by the Auctioneer as such attorney.

#### **INTERPRETATION**

- 1.33 In these Conditions: "Auctioneer" means (the selling Agent at each Sale) and includes its officers and agents. "Purchaser" means the person or corporation to whom any Lot is sold as referred to in Condition 1. "Consignor" means the person or corporation on whose behalf any Lot is sold by the Auctioneer and where more than one, shall mean each severally and any two or more jointly. "Promoter" means a third party (if any), identified in the Sale catalogue or other documentation issued in respect of the Sale as the promoter or sponsor of the Sale or of a closed race series or incentive race series in association with which the Sale is conducted. "Series Race" means the closed race series or incentive race series (if any) identified in the Sale Catalogue or other documentation issued in the respect of the Sale. "Lot" or "lot" includes gelding, colt and filly. The expression "colt" includes rig or cryptorchid, namely male animals in which one or both testes have not descended into the scrotum from the abdomen; however, it is the responsibility of the Consignor to have the Auctioneer announce that the "colt" is a rig or cryptorchid if that be so.
- 1.34 Where the Purchaser of any Lot comprises more than one person or corporation, these Conditions shall bind each such person or corporation severally and any two or more of such persons or corporations jointly.
- 1.35 Where any Lot is purchased by a person as an agent for a principal, whether disclosed or undisclosed, with agent shall, without prejudice to the principal's obligations pursuant to these Conditions, be personally bound to purchase the Lot for the price accepted by the Auctioneer upon these Conditions and the term "Purchaser" shall be construed to mean each of the agent and the principal severally and both the agent and the principal jointly

#### **GST EXCLUSIVE SALE**

- 1.36 The Nutrien Equine Standardbred Yearling Sales will be conducted as a GST exclusive sale.

#### **DISCLAIMERS**

- 1.37 For the information of the Purchaser, the Auctioneer has provided certain information on the lots catalogued for Sale. Any information is obviously subject to constant change and revision and its subsidiaries, officers and agent for themselves and for those whom they act, provide all information with responsibility and give no guarantee whatsoever as to its accuracy.
- 1.38 All persons who attend the Sale do so entirely at their own risk and neither (the Auctioneer), its subsidiaries, officers and agent for themselves and for those whom they act, nor the Promoter, subsidiaries, officers and agent for themselves and for those whom they act assume or accept any responsibility or liability of whatever nature for any injury or damage whatsoever which may occur to any person or property.

#### **CATALOGUE DISCLAIMER**

- 1.39 All care has been taken in the production of this catalogue in relation to the accuracy of information contained herein. The catalogue producers will accept no responsibility for any inaccuracies contained but will undertake to the best of their ability to correct any inaccuracies during the Sale. Please note, any announcements made from the Auctioneer's Stand on the day of the Sale will take precedence over anything contained within the Catalogue.

#### **CHANGING ADDRESS**

1.40 It is the responsibility of purchasers to inform Nutrien of your contact details to change information necessary for the delivery of appropriate notices pertaining to all sale ownership, registration and race series matters.

#### **PAYMENT OF PURCHASES**

1.41 All Purchasers must report to the Sale Office to:

1.41.1 execute the Slot Holder Agreement.

1.42 Racing Queensland will issue the purchaser with an invoice in accordance with the Slot Holder Agreement.

#### **PERSONS ACTING AS AGENTS**

1.43 Any person acting as agent in the purchase of a lot will be responsible for payment of that lot, unless prior arrangements have been made in writing with Nutrien Equine.

#### **CONSIGNORS**

1.44 Completed Slot Holder Agreements must be supplied to the Sale Day office staff, executed for transfer before the Sale commences. Failure to do so will delay payment of Sale proceeds.