

## AGISTMENT AGREEMENT FOR OAKWOOD FARM PTY LTD

A. Robert J Wood T/as Oakwood Farm Pty Ltd (the stud) ABN. 60 565 036 282, is a provider of various services to its clients, including the agistment of thoroughbred horses, broodmares, foaling down and rearing of thoroughbred foals, the standing of stallions & providing horse transport when necessary.

### THE PARTIES AGREE:

1. Oakwood Farm has the right to accept or decline any horse delivered to Oakwood Farm. Each accepted horse to Oakwood Farm shall be deemed to have done so subject to these terms and conditions listed within this agreement. Where there is more than one person who is by definition an "Owner" these terms and conditions shall bind all such Owners jointly and each of them severally.

For the purposes of this Agreement "Owner" shall include each of the owner, part owner, Lessee, syndicate manager, corporate trustee or other person who is recognized as an owner.

2. This agreement shall not be assigned or transferred by the owner. This agreement is assignable by Oakwood Farm for purposes of enforcement.

3. In the event this agreement is executed by an agent on behalf of the Owner, or representative or principal on behalf of the Owner, or if the Owner is an organization, the agent, representative or principal hereby unconditionally guarantees the full and prompt payment of all monies owed in respect of any horse the subject of this agreement as well as the full and prompt performance by the Owner of any and all other obligations hereunder. The agent warrants full disclosure to the owner of the terms of this agreement and any commission paid by Oakwood Farm to the agent in connection to this or any other agreement. The foregoing guarantee and warranty shall remain in effect regardless of whether the agent, representative or principal retains his or her status following the execution of this agreement.

### 4. CHARGES

The Owner agrees to pay all accounts within thirty (30) days of the invoice date. The Owner agrees to pay each monthly account in full prior to the receipt of the following month's account. Interest of 1% per month from the expiry of the period calculated daily plus collection costs charged including indemnity costs on a solicitor/client basis will be applied to all late payments. The charges will be reviewed on 1<sup>st</sup> August each year. Oakwood Farm sets its fees each year and are available upon request. Oakwood Farm may vary the above fees from time to time and may be advised by Oakwood Farm in writing to the Owner, whether it be by submission of an account or otherwise.

In addition to the above the Owner is solely responsible for the payment of:

- a. Transport costs of the horse to and from Oakwood Farm;
  - b. All treatments, examinations, procedures, operations, swabs and medicines, transport, DNA testing, microchipping, branding administered to the horse and/or its progeny while at Oakwood Farm whether administered by Oakwood Farm, including but not limited to Oakwood Farm's veterinarian, farrier or employees of Oakwood Farm. There shall be and is no warranty or representation as to the competence or judgement of any veterinarian, blacksmith (farrier), horse dentist, chiropractor or any other person employed by or in conjunction with Oakwood Farm in connection with the horse or others and any other costs incurred by Oakwood Farm during the horse and/or its progeny's stay at Oakwood Farm.
  - c. Services included but not limited to the full cost of services and supplies of veterinarians, farrier, drenching, horse dentist, chiropractor or any other person thought by Oakwood Farm to be necessary or advisable to attend the horse as they in their absolute discretion prescribe.
  - d. All costs entering the horse or progeny in any sales or any associated costs incurred in respect to such sale. Certain sales will incur a commission payable to Oakwood Farm of 2.5% of the gross sale of the owner's horse, whether by public auction or private sale. All owners will be advised in writing prior to the sale if this commission will be charged.
- li. Oakwood Farm reserves the right to hold any horse and/or progeny at Oakwood Farm if any monies due to Oakwood Farm under any agreement are not paid by the owner in full on or before expected departure of any horse and/or its progeny from Oakwood Farm.
- lii. Oakwood Farm shall be entitled to retain possession of any horse including broodmares and her progeny, mare return and document of description and all foal cards, or replacement cards, until all monies (including interest) and any collection or legal costs referred to herein in respect to any contract or monies due and owing in respect to any horse have been received by Oakwood Farm from the Owner.

### 5. OWNERS WARRANTY AND RESPONSIBILITIES

- i. The Owner hereby warrants, covenants and agrees with Oakwood Farm:
  - a. That the Owner is the registered Owner of the horse with full power and authority to enter into each of the provisions of this agreement.
  - b. The disclosed breeding history of the horse is true and correct.
  - c. That the correct horse is delivered to Oakwood Farm.
- ii. The Owner shall be solely responsible for:
  - a. The payment of all transport costs of the any horse delivered to Oakwood Farm.
  - b. All insurance arrangements for any given horse.
- iii. The Owner confirms that upon delivery to Oakwood Farm, the horse is free of all disease or infection and is in sound condition and that all vaccinations are up to date prior to arrival at Oakwood Farm.
- iv. The Owner acknowledges that:
  - a. Upon leaving Oakwood Farm the horse shall be deemed to be have been delivered to the owner.
  - b. All accounts for all horses at Oakwood Farm must be paid in full before any horse can be removed from Oakwood Farm
  - c. At least 24 hours notice will have to be given to Oakwood Farm before removing any horse.
  - d. The Owner authorizes Oakwood Farm to pay any and all creditors who have provided services to the Owner's horse. Oakwood Farm is authorized to deduct these costs from any sale proceeds or in the alternative, the Owner agrees to reimburse Oakwood Farm all such payments before the removal of any horse.

### 6. OAKWOOD FARMS RIGHTS AND OBLIGATIONS

Oakwood Farm shall endeavour to provide all care, good husbandry and attention to the horse and Oakwood Farm will be not be responsible for any negligent act and/or any loss, damage of whatsoever nature or however arising out of sickness, disease, injury or death sustained by the horse whilst at Oakwood Farm and under the care and control of Oakwood Farm, its servants or agents.

### 7. INSURANCE

- i. Oakwood Farm will not undertake responsibility for insuring the horse. This is the Owner's responsibility.

- ii. Insurance cover of any progeny born at Oakwood Farm will not automatically be effect and all insurance arrangements are the sole responsibility of the Owner; and
- iii. The Owner acknowledges responsibility for notifying Oakwood Farm of any insurance policies affecting the horse and if so requested by Oakwood Farm shall produce Oakwood Farm the evidence of such insurance.

#### **8. HOLD BLAMELESS ACKNOWLEDGEMENT – RELEASE AND INDEMNITY**

In this agreement:-

“Claims” means all claims, investigations, demands, actions, proceedings, suits, causes of action, damages, debts, costs, verdicts and judgements whatsoever at law or in equity or under any statute included but not limited to all claims arising from or out of damages to the horse or progeny or as a consequence thereof which relate to any incident or matter which occurred as a result of the horse being exposed to equine influenza or any other disease, injury or death whilst on Oakwood Farm or as a result of movement of the horse from Oakwood Farm for the purposes of services and treatments that need to be provided outside of Oakwood Farm and whether at common law, in equity or arising out of provisions of any statute.

The Owner:-

- i. Acknowledges that the breeding and rearing and agistment of thoroughbred racehorses is a high risk activity and that the Owner is advised to insure against such losses.
- ii. Acknowledges and agrees that they have been given the opportunity to inspect Oakwood Farm and its facilities and that they meet the standard applicable to the thoroughbred breeding and agistment industry and that Oakwood Farm will be held blameless in respect to any infection, disease, injury or death of a horse.
- iii. Releases Oakwood Farm, its owners, directors and shareholders, employees and agents of it from any claims.
- iv. Agrees to indemnify and keep indemnified Oakwood Farm against any liability or loss arising from any costs, charges, expenses and liabilities incurred in relation to, any claims relating to the any horse and in each case, including but not limited to, solicitor/client legal costs and expenses on a full indemnity basis.
- v. Further, Oakwood Farm shall not be liable for any loss, damage or claims of whatsoever nature or howsoever arising from injury, sickness, disease or death caused to or sustained by the horse whilst under the care or control of Oakwood Farm or its employees or any agents. Oakwood Farm shall not be liable to the Owner (in the case of more than one, to any of them) for any loss, damage, costs or expenses and arising out of any injury, damage or death which may arise or be caused and not withstanding the same as attributable to or as in part attributable to recklessness, negligence, forbearance or neglect by Oakwood Farm or any servant or agent of Oakwood Farm or any person in whose care or control Oakwood Farm may place the horse.

#### **9. LEGAL ADVICE**

Each party represents and warrants that they have obtained legal advice or have been given the opportunity to take legal advice in relation to the terms and effect of this agreement.

#### **10. LIEN**

The Owner grants Oakwood Farm a security interest in the horse and/or progeny, all insurance policies relating to the horse and/or progeny, all stud book returns relating to the breeding of the horse and/or progeny, all foal cards and replacement foal cards and the proceeds of any horse and/or it's progeny (all of the forgoing being the “collateral”).

The Owner appoints Oakwood Farm as its attorney to execute and file any and all financing statements and agricultural liens and irrevocable authorities to pay in any jurisdiction to Oakwood Farm or to any entity believed to be appropriate to secure any obligation of the Owner to Oakwood Farm whether arising by the owing of the charges or otherwise.

The Owner appoints Oakwood Farm as its attorney to obtain any horse (racehorse, broodmare and/or progeny) registration certificates or foal cards from the stud book or Racing Australia and retain such documents until all obligations of the Owner to Oakwood Farm are paid in full. In the event that the charges are not paid within 90 days, Oakwood Farm may without notice to the Owner take possession of the horse and/or progeny or other collateral and either retain the collateral in lieu of the obligation or resell the collateral privately or publicly in the manner in its sole discretion it believes to be advisable in which event Oakwood Farm shall credit the proceeds of the sale, after expenses of the sale and maintaining the collateral, to the Owners obligation to Oakwood Farm. This right is in addition to all other rights to which the Owner is entitled under the law.

#### **11. RETENTION**

Without limiting Oakwood Farm's rights in respect of a lien or Power of Attorney Oakwood Farm shall be entitled to retain possession of the horse and/or any progeny, the covering certificates, horse returns and documents of description until all money, collection costs and solicitor/client costs (including interest) due and owing have been received.

#### **12. NOTICE**

Any notice given by Oakwood Farm to the Owner pursuant to this agreement shall be deemed to be served on the Owner five (5) working days after the posting of such notice in a prepaid envelope addressed to the Owner at the Owner's address as set out in this agreement or such other address notified to Oakwood Farm by the Owner from time to time in writing notwithstanding that any such notice may not be received by the Owner.

#### **13. RIGHTS**

The rights of the Owner under this agreement are not transferable to any person or horse.

#### **14. ACCEPTANCE**

The Owner's acceptance of these terms is signified by:

- i. Delivery of the horse and/or progeny to Oakwood Farm.