



D A B E R N I G
R A C I N G

DABERNIG RACING PTY LTD - ABN: 53 649 180 638

STANDARD TRAINING AGREEMENT
(effective 1 June 2021)

INDEX

	Page No.
1. How this Agreement applies to you	2
2. The rights and obligations of the Trainer	3
3. Training fees and the Fees Notice	4
4. Payment for Training Services	5
5. The Training Disputes Tribunal (TDT)	7
6. Facilitating payment following a decision of a TDT – Other rights and obligations	8
7. Transfer of the horse between Trainers, or an interest in the horse between Owners – Further rights of the Trainer	8
8. Payment default – Other rights and remedies of the Trainer	9
9. The Trainer's right to share in prizemoney and other payments ...	11
10. Insurance	12
11. Termination	12
12. The effect of other agreements, and clauses to be severable	12
13. Notices	12
Schedule 1 – The Dictionary	14

1. HOW THIS AGREEMENT APPLIES TO YOU

- 1.1 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 August 2018. This Agreement supersedes the original version of the Racing Australia Standard Training Agreement, which was in force from 1 August 2017. 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.
- 1.2 The parties agree to be bound by the Rules of Racing, which include the TOR Rules, as amended from time to time. (In this Agreement, where a provision reflects or is mirrored by a TOR Rule, for convenience and reference only, the relevant TOR Rule is stated in square brackets after the provision.)
- 1.3 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 by a PRA.
- 1.4 This Agreement is governed by the laws of the State or Territory of the TDT at which any dispute in relation to Training Fees and/or Training Disbursements the subject of this Agreement would be heard pursuant to TOR Rule 5(4).
- 1.5 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 Managing Owner 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.
- 1.6 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.
- 1.7 Words or phrases in this Agreement have the meaning given to them in the Dictionary which is Schedule 1 to this Agreement and forms part of this Agreement.
- 1.8 In this Agreement headings and bold typing are for convenience only and do not affect interpretation and, unless the context otherwise requires:
 - (a) a reference to a word includes the singular and the plural of the word and vice



D A B E R N I G
R A C I N G

DABERNIG RACING PTY LTD - ABN: 53 649 180 638

versa;

- (b) a reference to a gender includes any gender;
- (c) if a word or phrase is defined, then other parts of speech and grammatical forms of that word or phrase have a corresponding meaning;
- (d) a term which refers to a person includes a person in any capacity, a body corporate, an unincorporated body (for example some joint ventures, a society or association), a trust, or a partnership.

2. THE RIGHTS AND OBLIGATIONS OF THE TRAINER

2.1 The Trainer agrees to care for, train, stable, feed, exercise and arrange appropriate treatment for the Horse in accordance with the Rules of Racing and to the standard of a reasonable Trainer in the Australian thoroughbred racing industry.

2.2 The Trainer (or an authorised representative of the Trainer) must:

- (a) care for and train the Horse in accordance with the Rules of Racing and to enable it to race to the best of its ability;
- (b) train the Horse with due care, skill, and diligence with reference to industry practice in the thoroughbred racing industry in Australia; and
- (c) periodically and in a timely manner report to the Owner about the welfare, progress, and performance of the Horse, at a minimum and without limitation:
 - (i) when the Horse enters the Trainer's stable for training;
 - (ii) when the Horse departs the Trainer's stable for agistment (including by identifying the place of agistment);
 - (iii) when the Horse transfers to another stable of the Trainer, or interstate, or to another Trainer, or to a selling agent;
 - (iv) when the Horse is nominated for or accepted for a trial or a race;
 - (v) when the Horse suffers a material injury or illness, requires veterinary treatment, or dies; and
 - (vi) by providing a post-trial or post-race report within a reasonable time of the completion of either.

2.3 A report in relation to any of the matters set out in clause 2.2(c) above may be provided in any comprehensible form including:

- (a) verbally in person;
- (b) by telephone (including by leaving a voicemail);
- (c) in written form (including by post, email, text message or facsimile).

2.4 Subject to clause 2.5, the Trainer has the right to engage a qualified person considered by the Trainer to be appropriate and/or necessary to attend to the Horse, including a veterinarian, farrier, horse dentist, horse chiropractor, horse acupuncturist, or water walker therapist.



D A B E R N I G
R A C I N G

DABERNIG RACING PTY LTD - ABN: 53 649 180 638

- 2.5 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 \$2000 (including GST), the Trainer must obtain the approval of the Managing Owner before arranging that treatment.
- 2.6 The Trainer has the right to nominate, enter, accept, scratch or withdraw the Horse from any race or trial as the Trainer thinks fit, except:
- (a) if the Trainer comes to a separate agreement in relation to any of those matters to the contrary with the Managing Owner;
 - (b) if the amount of a fee associated with the nomination, entrance, acceptance, scratching or withdrawal of the Horse exceeds \$2000 (including GST), the Trainer must seek approval from the Managing Owner in relation to its payment. If a Managing Owner does not respond within a reasonable time of that request for approval, the Trainer may proceed and will not be liable for doing so, including in relation to the payment of any fee referred to in this clause.
- 2.7 The Trainer is not required to nominate, enter or accept in relation to the Horse if, despite having made requests of the Managing Owner to be put into funds for the cost of the relevant nomination, acceptance or entry, that does not occur prior to the time for nomination, entry, or acceptance.
- 2.8 The Trainer will engage and instruct the race jockey unless prior agreement to the contrary is made between the Trainer and the Managing Owner.
- 2.9 The Trainer is entitled to accept the instructions of the Managing Owner as representing all Owners, except in relation to the proposed gelding, sale or retirement of the Horse, in which case the Trainer must inform all Owners and obtain confirmation of the consent of more than 50% of the ownership equity of the Horse.

3. TRAINING FEES AND THE FEES NOTICE

- 3.1 Within 7 days of the date on which the Trainer is appointed, the Trainer must provide to the Managing Owner a written notice of the Training Fees and Training Disbursements the Trainer proposes to charge (**Fees Notice**) which must set out:
- (i) the Training Fees itemised by category of service or item provided as part of that fee;
 - (ii) the anticipated Training Disbursements by name of service and anticipated provider (if known);
 - (iii) the anticipated Direct Payment Disbursements by name of service and anticipated provider (if known);
 - (iv) any additional fees the Trainer proposes to charge the Owner including bonuses for winning races, or commissions on the sale of the Horse; and
 - (v) 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 for pre-judgment interest in the Supreme Court of the State or Territory whose law governs this Agreement pursuant to clause 1.4.

[See TOR Rule 3(1)(a), 3(2) and 5(4)]

[A template Fees Notice is available at www.racingaustralia.horse]

- 3.2 If the Managing Owner 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. [See TOR Rule 3(1)(c)]
- 3.3 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. [See TOR Rule 3(3)]
- 3.4 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.
- 3.5 The Trainer can seek to vary the Fees Notice on 14 days' notice to the Managing Owner of the proposed variation. Unless the Managing Owner 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 14 day notice period elapses.

4. PAYMENT FOR TRAINING SERVICES

- 4.1 As a condition precedent to being able to rely on the presumption that an invoice is due and payable to the Trainer at the end of a month as stated in clause 4.3(a), 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. [See TOR Rule 4(1)]
- 4.2 If an Invoice is issued in accordance with clause 4.1, the Owner may formally dispute the Invoice (or part of it) by providing a Dispute Notice to the Trainer (with a copy also to Racing Australia). [See TOR Rule 4(3)]
- 4.3 If the Trainer issues an Invoice in accordance with clause 4.1:
 - (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").
[See TOR Rule 4(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 Racing Australia and/or the relevant PRA/s, as applicable, 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 Racing Australia (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, Racing Australia will not process any Stable Return seeking to transfer the Horse to another Trainer;

- (ii) Racing Australia and/or the relevant PRA responsible for any registration function in respect of the Horse will not register any transfer of the Owner's interest in the Horse; and
- (iii) Racing Australia will notify the relevant PRA/s and the PRA/s 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 a PRA, the Owner expressly waives any right to objecting to a PRA's payment of such prize money to the Trainer.

[See TOR Rule 6(1)]

- (c) Once an EAA is filed with Racing Australia by the Trainer pursuant to clause 4.3(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. [See TOR Rule 6(2)]
- (d) Once an EAA is filed by the Trainer pursuant to clause 4.3(b), unless Racing Australia or the relevant PRA, as applicable, considers that a special circumstance warrants another course, each of the consequences stated in clause 4.3(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 4.3(a) are paid to the Trainer;
 - (ii) the Trainer notifies Racing Australia that the Trainer has come to a settlement with the owner in relation to the disputed amount; or
 - (iii) the Owner notifies Racing Australia that the Owner has come to a settlement with the Trainer in relation to the disputed amount and provides sufficient evidence (as determined by Racing Australia in its sole discretion) of such settlement.

[See TOR Rule 6(3)]

- 4.4 (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 4.3(a) does not arise. In that instance, unless settled by consent, either of the parties may apply in accordance with clause 4.6 to have the dispute heard and determined by the TDT. [See TOR Rule 4(5)]
- (b) A Dispute Notice must comply with the following content requirements:
- (i) must be in a form prescribed by Racing Australia 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.

[See TOR Rule 5(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 Racing Australia:
 - A. subject to clause 4.4(c)(ii), 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 Racing Australia by the Trainer, and any purported service of a Dispute Notice after that time will not be valid.

[See TOR Rule 5(1)(d)-(e)]

- 4.5 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 4.1 (and failing that, the part not in dispute will be deemed due and payable to the Trainer at the end of the relevant month). [See TOR Rule 5(2)]
- 4.6 Once a Dispute Notice is served by the Owner on the Trainer in accordance with TOR Rule 5(1), each has the right to elect to have the dispute determined by a TDT by filing a Notice of Election of Hearing with Racing Australia (with a copy to be provided to the other party to the dispute) within 14 days of the Dispute Notice being served. [See TOR Rule 5(3)]
- 4.7 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 4.3(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). [See TOR Rule 4(2)]

5. THE TRAINING DISPUTES TRIBUNAL (TDT)

- 5.1 If a party elects pursuant to clause 4.6 to have the dispute determined by a TDT, the party commencing the proceeding must pay the Filing Fee to Racing Australia at the time of filing the Notice of Election of Hearing with Racing Australia (and serving it on the other party to the dispute). [See TOR Rule 8(1)]
- 5.2 A Notice of Election of Hearing will only be valid and accepted by Racing Australia 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. [See TOR Rule 8(2)]
- 5.3 When a Notice of Election of Hearing is received by Racing Australia, 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, Racing Australia will not process any Stable Return seeking to transfer the Horse to another Trainer; and
 - (b) Racing Australia and/or the PRA responsible for any registration function in respect of the Horse will not register any transfer of the Owner's interest in the Horse.

[See TOR Rule 8(3)]

- 5.4 The parties agree that TOR Rules 8(4) to 8(8) set out the rules which apply to them in respect of hearings before a TDT, including in relation to challenges to a TDT decision.
[See TOR Rules 8(4)-8(8)]

6. FACILITATING PAYMENT FOLLOWING A DECISION OF A TDT – OTHER RIGHTS AND OBLIGATIONS

- 6.1 Where a TDT makes an award in favour of the Trainer, subject to clause 6.2 and TOR Rule 8(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, Racing Australia will not process any Stable Return seeking to transfer the Horse to another Trainer;
 - (b) Racing Australia and/or the relevant PRA responsible for any registration function in respect of the Horse will not register any transfer of the Owner's interest in the Horse; and
 - (c) the relevant PRA/s 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.

[See TOR Rule 9(1)]

- 6.2 The consequences in clause 6.1 will apply until the Training Fees and/or Training Disbursements are paid by the Owner to the Trainer (with that payment notified to Racing Australia). [See TOR Rule 9(2)]
- 6.3 The Owner agrees that TOR Rules 9(3) and 9(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 9(3) and 9(4)]
- 6.4 If Racing Australia or a PRA 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 that PRA to the Owner within 7 days. [See TOR Rule 9(5)]
- 6.5 The Trainer must inform Racing Australia 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. [See TOR Rule 9(6)]

7. TRANSFER OF THE HORSE BETWEEN TRAINERS, OR AN INTEREST IN THE HORSE BETWEEN OWNERS – FURTHER RIGHTS OF THE TRAINER

- 7.1 If the Trainer consents in writing to the Horse being transferred to another Trainer or to the sale or transfer of an interest in the Horse from one Owner to another, clauses 7.2 to 7.4 do not apply.
- 7.2 In circumstances where the presumption of a training debt has not arisen, if the Trainer contends that Training Fees and/or Training Disbursements are due and payable to the Trainer, the Trainer may object by written notice provided to Racing Australia to the transfer of the Horse from the Trainer to another Trainer, or to the transfer of the Owner's interest in the Horse to another owner. [See TOR Rule 7(1)]

7.3 If the Trainer lodges an objection pursuant to clause 7.2:

- (a) the following consequences apply:
 - (i) if the Owner owns 50% or more of the total ownership of the Horse, Racing Australia will not process any Stable Return seeking to transfer the Horse to another Trainer;
 - (ii) Racing Australia will not register any transfer of the Owner's interest in the Horse; and
 - (iii) Racing Australia and/or the relevant PRA responsible for any registration function in respect of the Horse will not register any transfer of the Owner's interest in the Horse.
- (b) the consequences stated in clauses 7(a)(ii) and (iii) will cease after 5 business days unless the Trainer provides Racing Australia with copies of the Invoice/s outstanding to the Trainer (clearly identifying the parts of them alleged to be due and payable to the Trainer) within 5 business days of the proposed transfer;
- (c) upon receipt of that information, Racing Australia will notify the Owner who may then either:
 - (i) pay the amount of the Invoice/s to Racing Australia (in which case Racing Australia will pay those funds to the Trainer and Racing Australia or the relevant PRA, as applicable, will process the transfer request); or
 - (ii) serve a Dispute Notice on the Trainer (with a copy to Racing Australia), at which point either party may elect to have the matter determined by the TDT by filing a Notice of Election of Hearing with Racing Australia within 14 days of the date of issue of the Dispute Notice (with a copy to the other party). However, a Notice of Election of Hearing will only be valid and accepted by Racing Australia if the Dispute Notice related to the dispute was served within 6 months of the date of the invoice the subject of the dispute.

[See TOR Rule 7(2)]

- 7.4** If the Owner serves a Dispute Notice in the circumstances referred to in clause 7.3(c)(ii) , and the Owner still wishes for the transfer to proceed without delay, the Owner can pay the amount of the disputed Invoice/s into the Training Disputes Trust Account pending determination of the dispute, at which point Racing Australia will process the transfer. [See TOR Rule 7(3)]

8. PAYMENT DEFAULT – OTHER RIGHTS AND REMEDIES OF THE TRAINER

- 8.1** In addition to the Trainer's rights pursuant to clauses 6 and 7 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 and at a per annum interest rate not more than the rate prescribed from time to time for pre-judgment interest in the Supreme Court of the State or Territory whose law governs this Agreement pursuant to clause 1.4;

- (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 document (excluding the Thoroughbred Identification Card) recording the identification of the Horse or the defaulting Owner's interest in the Horse, provided the defaulting Owner holds an interest in the Horse of more than 50%;
- (e) 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;
- (f) 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;
- (g) the right to terminate any agreement with the defaulting Owner in relation to Training Services by written notice in accordance with clause 11 of this Agreement;
- (h) 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 William Inglis & Son Limited, or Magic Millions Sales Pty Ltd, or an online auction (such as bloodstockauction.com, and in the case of an online auction that auction must be agreed between the Trainer and the defaulting Owner or approved by a PRA), 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 William Inglis & Son Limited or Magic Millions Sales Pty Ltd (and where the second can also be obtained from a member of the Federation of Bloodstock Agents), or in the amount of one valuation by either William Inglis & Son Limited or Magic Millions Sales Pty Ltd 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:

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

8.2 For a sale pursuant to clause 8.1(h):

- (a) 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;



D A B E R N I G
R A C I N G

DABERNIG RACING PTY LTD - ABN: 53 649 180 638

- (b) if the outstanding Training Fees and/or Training Disbursements are paid in full during the notice period referred to in clause 8.2(a) the Trainer must not offer the defaulting Owner's interest in the Horse for sale;
- (c) if the outstanding Training Fees and/or Training Disbursements are paid in full after the notice period referred to in clause 8.2(a) but before the completion of the sale, the defaulting Owner irrevocably authorises the Trainer to proceed with the sale;
- (d) 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;
- (e) 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;
- (f) if the defaulting Owner does not comply with clause 8.2(e), 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
- (g) 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 8.2 before offering that interest for sale again.

8.3 In relation to the proceeds of a sale pursuant to clauses 8.1(h) and/or 8.2:

- (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 8.3(a), the Trainer agrees to pay the surplus to the defaulting Owner within 3 business days of receipt of the funds.

9. THE TRAINER'S RIGHT TO SHARE IN PRIZEMONEY AND OTHER PAYMENTS

- 9.1 In addition to Training Fees and/or Training Disbursements and provided the Trainer was the Trainer at the time a race in which the Horse runs takes place, the Trainer has the right to be paid the percentage of prize money and any other monetary amount or bonus (for example, in relation to a bonus scheme supported by a PRA) earned as a result of the Horse participating in the race, at the rates relevantly prescribed by a PRA or under the rules or conditions of a race.
- 9.2 Bonuses and/or incentives other than those referred to in clause 9.1 must be set out in the Fees Notice required by this Agreement and the TOR Rules.

9.3 Proprietor's additional remuneration and gratuities

The Owner must also pay to or bestow upon the Proprietor the additional remuneration and gratuities set out here and in the Fees Notice.

1. If the Horse, being an Entire, is sold or retired to stud:

(a) an additional fee being an amount equal to 5% (plus GST) of the sale price (excluding GST); and

(b) one (1) transferable lifetime service right which will entitle the holder of such right to nominate a mare to be provided with a stud service by the Horse during each stud season that the Horse is used to provide stud services commercially, free of any service fee.

2. If the Horse, being other than an Entire to which paragraph 1 applies, is sold while being trained by the Proprietor or within 3 months after ceasing to be trained by the Proprietor, an additional fee being an amount equal to 5% (plus GST) of the sale price (excluding GST) if sold privately, or 1% (plus GST) of the sale price (excluding GST), if sold at public auction.

Notes:

(1) The entitlements of the Proprietor to the additional remuneration and gratuities set out in paragraph 1:

(a) will be conditional upon the Horse winning a Group 1 or Group 2 race while being trained by the Proprietor, or within 3 months after ceasing to be trained by the Proprietor: but

(b) will not be conditional upon the Proprietor being the trainer of the Horse at the time of it being sold or retired to stud.

(2) The entitlements of the Proprietor to the additional remuneration set out in paragraphs 1 and 2 will also apply to the sale of an interest or share in the Horse.

10. INSURANCE

Insurance of the Horse (or an interest in the Horse) is a matter for each Owner, and the Trainer is not required to insure the Horse.

11. TERMINATION

Subject to other rights and obligations either party may have at law or pursuant to this Agreement:

- (a) the Owner (or where there are Co-owners, greater than 50% of the ownership equity in respect of the Horse) and Trainer can each terminate this Agreement for any reason by giving not less than 24 hours' written notice of termination to the other, at which point the Owner must take possession of the Horse as soon as possible and within 7 days;
- (b) until the Owner takes possession of the Horse, the Trainer must continue to care for the Horse at the Owner's reasonable cost, provided that if the Owner does not take possession of the Horse within 7 days of the date of termination, the Trainer may exercise his or her rights to sell the interest in the Horse in accordance with clauses 8.1(h) and 8.2 of this Agreement and account to the Owner for any surplus funds.

12. THE EFFECT OF OTHER AGREEMENTS, AND CLAUSES TO BE SEVERABLE

12.1 The Trainer and Owner can agree that the terms of an existing or new agreement between them in relation to Training Services, or certain terms of it, apply in conjunction with or instead of this Agreement, provided that:

- (a) the other agreement is in writing;
- (b) the parties agree in writing that the other agreement operates in conjunction with, or instead of, this Agreement;
- (c) none of the terms in the other agreement are in conflict or inconsistent with a Rule of Racing (including any of the TOR Rules); and
- (d) if there is any conflict or inconsistency between the terms in the other agreement and the Rules of Racing (including the TOR Rules), the Rules of Racing (including the TOR Rules) apply to the extent of the conflict or inconsistency.

12.2 Unless additional terms are agreed between the Trainer and Owner in writing pursuant to clause 12.1, this Agreement (together with any valid amendments to it made pursuant to clause 1.3) and the Fees Notice, constitutes the entire agreement between the Trainer and Owner concerning its subject matter.

12.3 If any clause or provision of this Agreement is found to be invalid or unenforceable by a court, that invalidity or unenforceability will not affect the remainder of this Agreement, which will continue with full force and effect.

13. NOTICES

13.1 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 Racing Australia; or
- (c) at the address of the Owner recorded on the relevant current Racing Australia registration form in respect of the Horse.

13.2 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 Racing Australia; or
- (c) at the address of the Trainer recorded on the relevant current Racing Australia registration form in respect of the Horse.

13.3 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
- (c) when the facsimile transmission is received by an addressee of a facsimile



D A B E R N I G
R A C I N G

DABERNIG RACING PTY LTD - ABN: 53 649 180 638

correspondence.



D A B E R N I G
R A C I N G

DABERNIG RACING PTY LTD - ABN: 53 649 180 638

14. DISPUTE RESOLUTION – DISPUTES NOT CONCERNING PAYMENT

- 14.1 This clause 14 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.
- 14.2 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 3 to 7), 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.
- 14.3 Failing resolution of the dispute in accordance with efforts made pursuant to clause 14.2, the parties to the dispute must, before commencing legal proceedings in relation to the dispute (save for proceedings seeking urgent interlocutory relief), attend a mediation:
- (a) before a mediator mutually agreed by them; or
 - (b) failing agreement, before a mediator nominated by Racing Australia.

SCHEDULE 1 – THE DICTIONARY

Agreement means this Racing Australia Standard Training Agreement.

Business day means a day that is not a Saturday, a Sunday, or a public holiday in the place concerned.

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 Racing Australia as an Owner or lessee.

Direct Payment Disbursements means costs or expenses in relation to the training and/or care of the Horse which are to be directly invoiced to the Owner by service providers other than the Trainer (including veterinary fees, breaking in fees, agistment fees and transport costs).

Dispute Notice means the Racing Australia form of that name referred to in this Agreement and the TOR Rules.

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

Exempt Owner means an owner who is not required to comply with this Agreement, being an owner:

- (a) who themselves trains the Horse pursuant to an owner/trainer licence and does not also train the Horse for any other owner; or
- (b) who employs (as an employee pursuant to a written contract of employment) or has engaged (pursuant to a written contract for service) a Trainer to train the Horse or Horses exclusively for that Owner so that the Trainer does not train horses for anyone else.

Exempt Trainer means a trainer who is not required to comply with this Agreement, being a trainer:

- (a) with an owner/trainer licence who does not also train the Horse for any other owner; or
- (b) who is contracted in writing to provide Training Services exclusively to an Exempt Owner.

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 Racing Australia (published at www.racingaustralia.horse or other domain name notified by Racing Australia) to cover administrative costs of the TDT process and which is to be remitted by Racing Australia to the relevant PRA which it allocates a TDT proceeding to.

Freeze means, in relation to prizemoney to which the Owner would otherwise be entitled, a direction by a PRA 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, including a tax imposed in the *A New Tax System (Goods and Service Tax) Act 1999* (Cth).

Horse means the thoroughbred horse/s trained by the Trainer for the Owner, and which is/are the subject of this Agreement.

Horse Registration Form (HRF) means a registration form of that name the Owner must lodge with Racing Australia to register the Horse (or an interest in the Horse) for racing.

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

Managing Owner means an Owner of the Horse who is specified as the managing owner in the HRF or other relevant registration form lodged or to be lodged with Racing Australia and, for the purpose of this Agreement, the Trainer is entitled to rely on the Horse's ownership registration records held by Racing Australia as conclusive evidence that the person specified on the relevant registration form is the Managing Owner of the Horse, unless the Trainer has actual knowledge to the contrary.

Notice of Election of Hearing means the Racing Australia form of that name referred to in this Agreement and the TOR Rules, which Racing Australia 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 a PRA or Racing Australia, corporation or Managing Owner, or any of them, but does not include an Exempt Owner or a member of a Syndicate registered with Racing Australia 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 Racing Australia registration form held by Racing Australia or as subsequently amended by another later registration form (including a transfer of ownership form) lodged with Racing Australia.

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.

Principal Racing Authority (PRA) means the relevant peak body in each of the States and Territories of Australia responsible for the conduct and administration of thoroughbred horse racing in the State or Territory.

Prizemoney to which the Owner would otherwise be entitled means, for the purpose of the TOR Rules and this Agreement, any prizemoney which, but for the TOR Rules, the Owner would be entitled to receive from Racing Australia or a PRA in relation to the results in a race of the Horse/s owned or part owned by the Owner which is trained by the Trainer (or that received the Training Services). Such prizemoney therefore includes prizemoney earned through the results of a horse/s other than the horse/s that received the relevant Training Services the subject of action taken under this Agreement or the TOR Rules and prizemoney of the Horse/s that received the relevant Training Services (even if the Trainer no longer provides Training Services in respect of such Horse/s).

Racing Australia means Racing Australia Ltd and any successor entity substantially carrying out Racing Australia's functions.

Rules of Racing means the Australian Rules of Racing promulgated by Racing Australia (and formerly the Australian Racing Board), together with Local Rules of a PRA (**Local Rules**), each as amended from time to time.

Special circumstance means, for the purpose of the TOR Rules and this Agreement, a circumstance which is out of the ordinary, including as stipulated to be a "special circumstance"

by a PRA under its Local Rules.

Stable Return means a stable return, form or written notification lodged by the Trainer with Racing Australia in respect of the Horse.

Syndicate means a syndicate as defined by the Rules of Racing.

Syndicate Manager means the person/s identified as such in a HRF or other relevant Racing Australia registration form in respect of either a Syndicate registered with a PRA or Racing Australia, or a Syndicate which is subsequently registered as an Owner or Co-owner by Racing Australia.

TOR Commencement Date means 1 August 2017 or another date notified by Racing Australia.

TOR Rules means the rules set out in Schedule 1 to the Australian Rules of Racing, as amended from time to time.

Trainer means any individual, corporation, trust or partnership operating a business which is licensed by a PRA to train a horse or horses under the Rules of Racing, and for the purpose of this Agreement also includes the company or other business structure through which a Trainer or training partnership provides Training Services (including the billing of Training Fees and/or Training Disbursements), whether or not that entity or structure is licensed or registered by a PRA. It includes a licensed pre-trainer.

Trainer and Owner Reforms (TOR) means the Racing Australia reforms comprising the TOR Rules, and the arrangements between Trainers and Owners and between Co-owners, commencing on the TOR Commencement Date.

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 each PRA in each of the States and/or Territories of Australia to determine disputes in relation to Training Fees and/or Training Disbursements, as provided for in the TOR Rules and this Agreement.

Training Disputes Trust Account is the trust account held and operated by Racing Australia for the purposes of the TOR.

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, freighting, agisting, rental of gear, and the provision of veterinary, chiropractic, acupuncture, dental, and farrier services and treatments.