



## SEMEN STORAGE TERMS AND CONDITIONS OF STORAGE

This is an Agreement dated ..... between Agnes Banks Equine Clinic Pty Limited ACN 145 333 446 (the Storer) and ..... (the Client) of (Address): .....  
..... State: ..... Postcode: ..... Contact Number: .....  
(name and address must be completed) for Stallion: .....

Signed by Client: ..... Date: .....

The person signing must be the owner of the Semen or authorized by the owner of Semen. If the Client is a company then the person who signs this shall be an officer of the company with authority to bind the company to the terms of this agreement.

This Agreement covers the terms of semen storage between Client and Storer and can only be varied by the Storer (Agnes Banks Equine Clinic) once it has been signed.

### 1. Definition of Semen

To be capable of being the subject of this Agreement the semen shall be equine semen, currently stored cryogenically but capable of being thawed for insemination and otherwise in good order at the time of receipt.

### 2. Deposit of semen

This Agreement does not apply to the Semen until same is deposited with Storer at its premises where it will be stored. Semen can only be accepted during business hours at 5 Price Lane Agnes Banks NSW. Storer shall not be liable in any way for the Semen until it has been deposited with Storer and then only if the Client has completed and signed this agreement.

### 3. No insurance

The Client acknowledges that Storer has no insurance cover for loss or damage of Semen however caused while in its control or possession. If Client will suffer financial loss from the loss or damage of Semen by loss, destruction by accident or elapse of time or any other cause while it is in the control of Storer then the Client shall insure against loss or damage to protect themselves against that loss.

### 4. Storer disclaimer

Client acknowledges that Semen is fragile and perishable property. Storer disclaims any liability for any claims, demands, actions, proceedings, suites, causes of action, damages, costs, verdict or judgements whatsoever arising and whether arising directly or indirectly from storage or delivery of Semen.

### 5. Fees for storage of Semen

Storer will store Semen received by it for \$17.60 inc GST per calendar month or part thereof (Storage Charges) per stallion. Invoice for Storage Charges will be forwarded to the address of the name and address shown on the top of this document. Payment of the invoice shall be made by the Client within 30 days of the date of the invoice. If not paid as set out above the invoice shall accrue interest as set out in clause 5 below.

### 6. Interest on Storage Charges

Where Storer has presented an invoice to the Client and the invoice has not been paid within 31 days of the presentation of the invoice then the Client shall pay interest on the amount outstanding from time to time including previous interest (compounding interest) at the rate which is Reserve Bank of Australia Cash Rate as published at <http://www.rba.gov.au/statistics/cash-rate/> plus 10% per annum (e.g. when the RBA Cash Rate is 1.75% per annum the rate charged under this agreement shall 11.75% per annum).

## 7. Lien on Semen (Storage Liens Act 1935 Section 3)

- (1) The Storer shall have a lien on Semen deposited with it for storage, whether deposited by the owner of the Semen or by his or her authority, or by any person entrusted with the possession of the Semen by the owner or by his or her authority.
- (2) A Client's lien over property has priority over any other interest in the property and may be enforced accordingly.
- (3) Section 73 (2) of the Personal Property Securities Act 2009 of the Commonwealth is declared to apply to a Storer's lien.

## 8. Charges covered by the lien (Storage Liens Act 1935 Section 4)

The lien shall be for the amount of the Storer's charges and any interest which is payable, that is to say:

- (1) all lawful charges for storage and preservation of the Semen, and
- (2) all lawful claims for money advanced, interest, insurance, transportation, and other expenses in relation to the Semen, and
- (3) all reasonable charges for any notice required to be given under the provisions of this Act, and for notice and advertisement of sale, and for sale of the Semen where default is made in satisfying the Storer's lien.

## 9. Notice of lien-Semen deposited by person entrusted with possession (Storage Liens Act 1935 Sect. 5)

- (1) Where the Semen on which a lien exists were deposited not by the owner or by his or her authority, but by a person entrusted by the owner or by his or her authority with the possession of the Semen, the storer shall, within two months after the date of the deposit, give notice of the lien:
  - (a) to the owner of the Semen, including any person who has served upon the Storer a prescribed notice of his or her claim to be the owner of the Semen or of some interest therein, and
  - (b) to any other person of whose interest in the Semen the Storer has actual knowledge.
- (2) The notice shall be in writing and contain:
  - (a) a brief description of the Semen, and
  - (b) a statement showing the location where the Semen are stored, the date of their deposit with the Storer, and the name of the person by whom they were deposited, and
  - (c) a statement that a lien is claimed by the Storer in respect of the Semen under this Act, and
  - (d) such other particulars as are prescribed.
- (3) The notice may be given personally or by registered post.
- (4) Where the Storer fails to give the notice required by this section, his or her lien, as against the person to whom he or she has failed to give notice, shall be void as from the expiration of the period of two months from the date of the deposit of the Semen.

## 10. Power to sell Semen (Storage Liens Act 1935 Section 6)

- (1) In addition to all other remedies provided by law for the enforcement of liens or for the recovery of Storer's charges a Storer may sell by public auction, in the manner provided in this section, any Semen upon which he or she has a lien for charges which have become due.
- (2) The Storer shall give written notice of his or her intention to sell:
  - (a) to the person liable as debtor for the charges for which the lien exists, and
  - (b) to the owner of the Semen, including any person who has served upon the storer a prescribed notice of his or her claim to be the owner of the Semen or of some interest therein, and
  - (c) to any other person of whose interest in the Semen the storer has actual knowledge.
- (3) The notice may be given personally or by registered post.
- (4) The notice shall contain:
  - (a) a brief description of the Semen, and
  - (b) a statement showing the location where the Semen are stored, the date of their deposit with the storer, and the name of the person by whom they were deposited, and
  - (c) an itemised statement of the storer's charges showing the sum due at the time of the notice, and
  - (d) a demand that the amount of the charges as stated in the notice and such further charges as may accrue shall be paid on or before a day mentioned, not less than one month from the delivery of the notice if it is personally delivered, or from the time when the notice should reach its destination according to the due course of post if it is sent by post, and
  - (e) a statement that unless the charges are paid within the time mentioned the Semen will be advertised for sale and sold by public auction at a time and place specified in the notice.
- (5) Where the charges are not paid on or before the day mentioned in the notice, an advertisement of the sale, describing the Semen to be sold, and stating the time and place of the sale, shall be published at least once a week for two consecutive weeks in a newspaper circulating in the locality where the sale is to be held, and in one metropolitan daily newspaper. The sale shall be held not less than fourteen days from the date of the first publication of the advertisement.

### 11. Notices (Storage Liens Act Section 7)

- (1) Where a notice of lien under the provisions of section 5, or a notice of intention to sell under the provisions of section 6 has been given, but such provisions have not been strictly complied with, if any court before whom any question respecting the notice is tried or inquired into considers that such provisions have been substantially complied with, or that it would be inequitable that the lien or sale shall be void by reason of such non-compliance, no objection to the sufficiency of the notice shall in any such case be allowed to prevail so as to release or discharge the goods from the lien or vitiate the sale.
- (2) A notice given under this Act by registered post shall be deemed to be sufficiently addressed to the person to whom it is sent if it is addressed to him or her at the last address of such person known to the Storer.
- (3) Regulations made under this Act may provide for the giving of notice by advertisement in cases where any person to whom notice may be given pursuant to section 5 or section 6 is unknown to the Storer, or where no address of any such person is known to the Storer, and for the ascertainment of the day upon which such notice shall be deemed to have been given, and for any other matter relating to such advertisement. Any notice given by advertisement in accordance with such regulations shall for the purposes of this Act be deemed to have been given personally on the date ascertained pursuant to the regulations.

### 12. Disposition of proceeds of sale (Storage Liens Act Section 8)

- (1) From the proceeds of the sale the Storer shall satisfy his or her lien, and shall pay over the surplus, if any, to the person entitled thereto; and the Storer shall when paying over the surplus deliver to the person to whom he or she pays it a statement of account showing how the amount has been computed.
- (2) If the surplus is not demanded by the person entitled thereto within ten days after the sale, or if there are different claimants or the rights thereto are uncertain, the Storer shall pay the surplus to the NSW Trustee and Guardian.
- (3) The Storer at the time of paying the amount to the NSW Trustee and Guardian shall furnish duplicate copies of the statement of account, showing how the amount has been computed, verified in the manner prescribed, and such other particulars relating to the transaction as may be prescribed by regulation made under this Act.
- (4) Any money so paid to the NSW Trustee and Guardian shall be held by him or her on behalf of the person for the time being entitled thereto and such person shall be entitled to be repaid such sum, less any charges prescribed by regulations made under this Act. The regulations may prescribe the manner in which sums lying unclaimed in the hands of the NSW Trustee and Guardian for a period of six years shall be disposed of.

### 13. Provision for payment before sale of Semen (Storage Liens Act Section 9)

- (1) At any time before the Semen is sold any person claiming an interest or right of possession in the Semen may pay the Storer the amount necessary to satisfy the lien, including the expenses incurred in serving notices and advertisement and preparing for the sale up to the time of the payment.
- (2) The Storer shall deliver the Semen to the person making the payment if he or she is the person entitled to the possession of the Semen on payment of the Storer's charges thereon, otherwise the Storer shall retain possession of the Semen according to the terms of the contract of deposit.

### 14. Guarantee by company director

If the Client is a company and the person who has signed this Agreement is a director of the Client at the time of entry into this Agreement then that director shall be become by signing this Agreement bound by a guarantee to meet any terms of this Agreement which the Client is obliged to meet but which is unable or unwilling to meet.