

## **TERMS AND CONDITIONS OF TRANSPORT**

1. In these conditions:  
"Corumbene" shall mean CORUMBENE STUD PTY LTD (ABN 27 100 066 822) its related companies, servants and agents.  
"Owner" means the person referred to as the Owner in the Thoroughbred Agistment Agreement.  
"Sub-Contractor" shall mean and include all companies which are Related Corporations of Corumbene within the meaning of the expression as defined in the Corporations Act, any other person, firm, or company with whom Corumbene may arrange for the carriage of any livestock the subject of this contract, and any other person who is a servant, agent, employee or sub-contractor of Corumbene or any of its Related Corporations.
2. Corumbene is not a common carrier and will accept no liability as such. All livestock is carried or transported and all agistment and other services are performed by Corumbene subject only to these conditions and Corumbene reserves the right to refuse the carriage, transport or agistment of livestock for any person corporation or company and the carriage, transport or agistment of any livestock at its discretion.
- 3.1 The livestock is at the sole risk of the Owner and not Corumbene.
- 3.2 Unless expressly agreed in writing Corumbene shall not be responsible in tort or contract or otherwise for:
  - (a) any loss of or damage to or deterioration of livestock or mis-delivery or failure to deliver or delay in delivery of livestock either in transit or in agistment for any reason; or
  - (b) any consequential loss or injury of any kind whatsoever including without limitation the negligence or willful act or default of Corumbene or others.
- 3.3 This clause shall apply to all loss, damage, deterioration, consequential loss and/or injury referred to above whether or not the same occurs in the course of performance by Corumbene of the Contract or in events within the contemplation of Corumbene and/or the Consignor and/or Owner or which are foreseeable by them or which would constitute a fundamental breach or a breach of a fundamental term of the contract.
- 4.1 The Owner warrants that the livestock accepted by Corumbene for transport and/or agistment is in all respects fit and suitable for the services to be provided by Corumbene.
- 4.2 If, in the sole opinion of Corumbene, the livestock is or is liable to become dangerous it may at any time be destroyed by Corumbene without compensation to and at the cost of the Owner.
- 4.3 If, in the sole opinion of Corumbene, the livestock requires medical treatment, including but not limited to sedation, such medical treatment shall be provided by Corumbene at the cost of the Owner.
5. Under no circumstances does Corumbene undertake to insure or arrange for the insurance of the livestock against any insurable risk whatsoever. The Owner warrants that the livestock is fully insured against all risks which may arise during the carriage of the livestock and that, unless specifically notified to Corumbene in writing prior to the commencement of the carriage, the livestock is in good health and condition.
6. The Owner hereby agrees to indemnify Corumbene in respect of any loss, damage or injury caused to Corumbene or any other person or any property of Corumbene or any other person by the livestock during the carriage or agistment thereof and further agrees to indemnify and keep Corumbene indemnified against all damages, actions, claims, suits and demands made by any person in respect of such loss, damage or injury.
7. Corumbene is authorized to deliver the livestock at the address given to Corumbene by the Owner or consignor for that purpose and it is expressly agreed that Corumbene shall be taken to have delivered the livestock in accordance with this contract if the livestock is delivered at that address.
8. The Owner hereby authorizes Corumbene (if it should think fit to do so) to arrange with a sub-contractor or sub-contractors for the carriage of any livestock the subject of this contract. Any such arrangement shall be deemed to be ratified by the Owner upon delivery of the livestock to such sub-contractor or sub-contractors who shall thereupon be entitled to the full benefit of these terms and conditions to the same extent as Corumbene. In so far as it may be necessary to ensure that such sub-contractor or sub-contractors shall be so entitled Corumbene shall be deemed to enter into this contract on its own benefit and also as agent for the sub-contractor or sub-contractors.
9. The Owner hereby authorizes any deviation from the usual route or manner or cartage of livestock which may in the absolute discretion of Corumbene be deemed reasonable or necessary in the circumstances.
10. The Owner will be and remain responsible to Corumbene for all its proper charges incurred for any reason.
11. If any person fails to pay charges due to Corumbene in respect of any service rendered by Corumbene on reasonable demand being made in accordance with the contract, Corumbene shall have a lien on the livestock and any documents relating to the livestock and/or any other livestock of the Owner in the possession or control of Corumbene and any documents relating to those other livestock for all sums payable by the Owner to Corumbene on any basis and Corumbene shall have the right to sell, destroy or otherwise dispose of such livestock by public auction or private treaty without notice to the Owner. Corumbene shall be entitled to retain the sums due to it, in addition to the charges incurred in detention and sale of such livestock, from the proceeds of sale and shall render any surplus to the entitled person.
12. If the livestock is not accepted for delivery when tendered, Corumbene may hold the livestock as bailee and shall be entitled to agistment fees at the normal rates charged by Corumbene AND as bailee Corumbene shall not be under any liability for any loss of or damage to the livestock howsoever caused, OR at its discretion, Corumbene may return the livestock to the consignor at the cost and risk of the Owner.
13. Notwithstanding anything herein contained, Corumbene shall continue to be subject to any implied warranty provided by the Australian Consumer Law (as amended) if and to the extent that the said Law is applicable to this contract and prevents the exclusion or modifications of the warranty.
14. The consignor shall comply with all applicable law, customs and other government regulations of any State or Territory or of the Commonwealth of Australia including those relating to the packaging carriage and delivery of livestock and shall furnish information and attach such documents to this contract as may be necessary to comply with such laws and regulation. Corumbene shall not be liable to the Owner or any other person for loss or expense due to the consignor's failure to comply with this provision.
15. The contract is made in the State of New South Wales and shall be governed by the laws of New South Wales and the courts of New South Wales shall have exclusive jurisdiction in relation to any dispute arising from this contract.
16. The fees payable pursuant to this contract do not include any Goods and Services Tax ("GST") or like taxation impost levied by the Commonwealth Government. All fees payable will attract GST at the rate applicable from time to time which will be specified in each invoice provided and the Owner agrees to pay Corumbene for any such amount.
17. Words importing the singular number or plural number when used in this Contract shall include the plural number and singular number respectively and words importing the masculine gender shall include the feminine or neuter gender and person includes any company or other legal entity.

Extra Clauses

- #. If the consignor expressly or impliedly instructs Corumbene to use or it is expressly or impliedly agreed that Corumbene will use a particular method of handling or storing the livestock or a particular method of carriage whether by road, rail, sea or air Corumbene will give priority to the method but if it cannot conveniently be adopted by Corumbene, the Consignor hereby authorizes Corumbene to handle or store or to carry or have the livestock carried by another method or methods.
- #. It is agreed that the person conveying any livestock to Corumbene for carriage or forwarding is authorized to sign this consignment note for the Consignor.
- #. Where by express agreement Corumbene becomes responsible for damage to or loss of livestock no claim for such loss or damage will be allowed unless:
  - (i) notice in writing is lodged with an office of Corumbene in the State in which delivery was effected within seventy-two (72) hours after delivery was given; and
  - (ii) In any event the company shall be discharged from all liability whatsoever in connection the provision of the Services and/or the livestock unless suit is brought and notice given within nine (9) months of the provision of the Services or delivery of the livestock or when the Services should have been provided or the livestock should have been delivered.
- #. No purported variation or modification of these conditions shall have any effect unless in writing signed by the general manager of Corumbene.
- #. The Consignor warrants that except as shown in any accompanying Consignor's certificate the consignment does not contain any explosive volatile spirits or any other cargo of a dangerous inflammable or offensive nature or cargo the carriage of which by Corumbene would be illegal or prohibited by any law or regulation of any States, Territory or the Commonwealth due to its nature, packaging or labeling. The Consignor hereby indemnifies Corumbene in respect of Corumbene's liability for death, bodily injury, loss and/or damage occurring wholly or partially as a result of or arising out of consignor's failure to comply with this warranty.