

ALMA VALE SALE & AGISTMENT AGREEMENT

BETWEEN

1. Alma Vale Thoroughbreds Pty Ltd, ACN 665 178 218 of 3111 New England Highway, Scone 2337 (“Alma Vale”)

AND

2. The person or entity as set out in of Schedule 1 (“Owner”)

WHEREAS

- A. The Owner, as registered with the Stud Book and with full power and authority from each (if any) other owner to enter into this Agreement agrees to send the Horse to the Stud; and
- B. Alma Vale agrees to accept the Horse for the provision of the Services upon the terms of this Agreement.

1 Definitions

Act means the *Personal Properties Securities Act 2009 (Cth)*

ATO means the Australian Tax Office.

Charge means the right to seize and sell (including power of sale and right to receive and apply proceeds).

Claims means all claims, investigations, demands, actions, proceedings, suits, causes of action, damages, debts, costs, verdicts and judgments including but not limited to all claims arising from or out of damage to the Horse which relate to any incident or matter occurring as a result of the Horse being exposed to disease, injury or death whilst on the Farm, or as a result of moving the Horse from the Farm for the purpose of service, foaling or treatment, and whether at common law, equity or under statutory provision.

Collateral means the personal property offered up as security for the debt or other obligation owed to Alma Vale by the Owner. The Collateral for the purposes of this agreement means all the owner's horses including without limitation the horse/s set out in of and any Progeny.

Commission means the sales commission as set out in Schedule 2.

Encumbrance means:

- a) Any Security Interest;
- b) Any right, interest or arrangement which has the effect of giving another person a preference, priority, or advantage over creditors, including any right of set-off;
- c) Any third party right or interest in property, or any right arising as a consequence of the enforcement of a judgement.

or any agreement to create any of them or allow them to exist. d) **Farm** means the property operating at 3111 New England Highway, Scone 2337 and any other properties owned, operated, leased or used by Alma Vale from time to time.

Financing Statement means a statement of the data registered pursuant to an application for a registration on the PPSR.

Grantor has the meaning given to it under section 10 of the Act. The Grantor for the purposes of this Agreement is the Owner.

Horse means all of the Owner's horses delivered to the Farm from time to time and all other stallions, geldings, mares, colts, fillies, and their progeny both current and future. For the purposes of this Agreement, the term Horse is both singular and plural, male and female and includes any progeny which is deemed to have come into existence, for the purposes of 86 of the Act, from the last date of cover.

Owner means the abovenamed and includes each (if any) other owner, part owner, lessee, partner, syndicate member, syndicate manager, company, corporate trustee or other person who is legally recognised as an owner, joint and severally.

PPSR means the Personal Property Securities Register under the Act.

Sales Company means William Inglis Bloodstock Auctions and Sons Pty and Magic Millions Sales Pty Ltd.

Secured Party has the meaning given to it under section 10 of the Act. The Secured Party for the purposes of this Agreement is Alma Vale.

Security Interest means:

- a) In relation to any personal property (as defined in the Act), has the same meaning given to it as defined in section 12 of the Act; and
- b) In relation to any other property, means any charge, mortgage, pledge, bill of sale, hypothecation, lien, arrangement concerning the deposit of documents evidencing title, trust, power, title retention arrangement or any other covenant or arrangement of any nature made to secure the payment of money or the observance of an obligation

Services means agistment and animal husbandry.

Stud Book means the Australian Stud Book as owned and operated by Racing Australia Limited (ACN 105 994 330).

Special Characteristics means wind-sucking, “wobblers”, roarers, respiratory problems, impaired vision and blood and drug testing and includes any declaration required by a vendor pursuant to sale conditions of a Sales Company as may be amended from time to time.

2 Agreement

- 2 Alma Vale agrees to provide the Services to the Horses from time to time in exchange for the applicable fee as set out in Schedule 2 and subject to the following terms and conditions.

3 Personal Guarantee

- 3 In the event that this Agreement is executed by an agent, or representative, principle or director on behalf of the Owner, or if the Owner is an organisation or a corporation, the undersigned hereby unconditionally guarantees the full and prompt payment of the charges as Guarantor and agrees that he/she will be personally liable, jointly and severally liable with the Owner to pay on demand to Alma Vale the monies owed by the Owner under this Agreement as well as guaranteeing the full and prompt performance by the Owner of any and all other obligations of this Agreement.
- 3 The undersigned warrants full disclosure to the Owner of the terms of this Agreement. This guarantee and warranty shall remain in effect regardless of whether the agent, representative, principal or director retains his or her status as such following the execution of this Agreement.

4 Fees and Charges

- 4.1 Alma Vale sets its fees each year (as provided for in **Schedule 2**) Alma Vale may vary the fees from time to time and will advise the Owner in writing of any changes.
- 4.2 Alma Vale will render an invoice monthly, for fees incurred in arrears, payable by the Owner.
- 4.3 The Owner agrees to pay:
 - a) all accounts in full within 14 days of the invoice date.
 - b) interest of 1% per month from the expiry of that period, calculated daily.
 - c) any and all collection costs, commissions, debt recovery expenses including indemnity legal costs on a Solicitor/Client basis will be applied to all late payments.
- 4.4 The Owner appoints Alma Vale as its agent to make all decisions with respect to the care and well-being of the Horse and is solely responsible for the payment of:
 - a) transport costs of the Horse to and from the Farm;
 - b) all treatments, drenching, examinations, procedures, operations, swabs and medicines, DNA testing, micro chipping and branding administered to the Horse while at the Farm, whether administered by Alma Vale, its Agents, employees or independent contractors.
 - c) services and supplies including but not limited to services of farrier, horse dentist, chiropractor, veterinarian or other person thought by Alma Vale to be necessary or advisable to attend the Horse.

- d) all costs of or incidental to entering the Horse in any sale including any commission, promotional fee, passed in commission and agrees to pay Alma Vale the Commission of the Horse, whether sold by public auction or private sale together with all fees and rates in Schedule 2 and any other costs including accommodation, sales entertainment, sales costs, advertising, marketing.
 - b) Any dispute between the Owner and a purchaser of the Horse as a result of Special Characteristics.
 - c) Failure to disclose any Special Characteristics.
- 4.5 The Owner authorises Alma Vale to obtain these services and supplies on its behalf. There is no warranty given by Alma Vale as to the competence or judgment of a person employed by or in contract with Alma Vale in connection with the Horse;
- 4.6 All monies due to Alma Vale and incurred by third parties in respect to the Horse shall be paid by the Owner on or before the departure of the Horse from the Farm. Page 2
- 4.7 Alma Vale shall be entitled to retain possession of any mare return, document of description and all foal cards, or replacement foal cards until payment of all monies (including interest) and any debt recovery, collection, or legal costs referred to in clause 4.4.

5 Sales Consignment

- 5 The Owner must instruct Alma Vale as to the reserve price of the Horse to be sold at auction. If the Owner does not advise of the reserve price, then the Horse will be sold at the auction without a reserve.
- 5 The Owner acknowledges that Alma Vale will have x-rays taken of the Horse solely at its discretion and the Owner agrees that it is solely responsible for the costs associated with the x-rays. Alma Vale will lodge the x-rays in the repository of the sales company.
- 5 The Owner acknowledges and warrants that it has provided to Alma Vale the correct ABN and GST in relation to all the Owners entities and must complete Schedule 1 to this Agreement.
- 5 In the event that the Owner does not provide the GST status of the Owner, then the Owner authorises Alma Vale to advise the sales company to sell the Horse and apply GST to the sale.
- 5 The Owner acknowledges that it cannot hold Alma Vale responsible and further releases and indemnifies Alma Vale from any loss which the Owner may incur for any errors in relation to the collection of GST or collection of any proceeds otherwise by the auction house or any other party or by the failure to pay to the Owner any of the sale proceeds including GST by the sales company which conducts the Auction or by the Purchaser of the Horse whether or not it is pursuant to any vendor finance agreement following the sale of the Horse.
- 5 The Owner acknowledges that it has the full responsibility of remitting any GST applicable to the sale of the Horse to the Australian Taxation Office.
- 5 The Owner releases and indemnifies and agrees to keep indemnified Alma Vale from and against:
- a) All losses incurred by Alma Vale;
 - b) All liabilities incurred by Alma Vale;
 - c) All legal costs (on a solicitor/client or full indemnity basis whichever is the greater) and other expenses incurred by Alma Vale in connection with a demand, action, mediation, arbitration, suit or other proceeding including the amount of Court settlement or appeal; and arising from the consignment and sale of the Horse by Alma Vale of any obligations under this Agreement whether expressed or implied.
- 5 The Owner acknowledges that if the Horse is sold and is exported from Australia that the Owner of the Horse is responsible for payment of GST on the sale if the purchaser of the Horse does not comply with the ATO requirements regarding exports. The requirements include that the Horse be exported within the required time period, the Horse not die prior to export and the Horse not be used in any way except as necessary to prepare the Horse for export from Australia. The Owner further acknowledges that it is required to have documentary proof of the export as required by the ATO to be exempt from the payment of GST.

6 Return under Sale Conditions

- 6.1 Alma Vale will, to the best of their knowledge and ability, declare Special Characteristics, to any sales company selling the Horse however;
- 6.2 The parties acknowledge that the Special Characteristics are not always known and may present in the Horse without notice or observation.
- 6.3 The Owner acknowledges and agrees, Alma Vale shall not be liable to the Owner for any Claim (including direct or consequential) in the event of;
- a) Termination of a sale of the horse as a result of Special Characteristics; and

7 Irrevocable Authority

- 7 For good and valuable consideration, the Owner hereby provides an irrevocable instruction, direction and authority to any sales company who sells a Horse to pay any monies that are due at the time of sale to Alma Vale, from the sale proceeds of the Horse and to any insurance company to pay any proceeds of any insurance policy for the Horse to Alma Vale without requiring further notification to the Owner. The acceptance of such funds or any sale by Alma Vale pursuant to this Agreement shall be without prejudice as to Alma Vale' rights to pursue the Owner for any shortfall, or other damages without restriction. The provision of a certified copy of this document to the sales company or insurance company shall be good and sufficient evidence of this authority.

8 Security Interest – Personal Property Securities Act 2009

- 8 This Agreement constitutes a Security Agreement for the purposes of the Act and where the context requires words used in this Agreement should be given the same meaning as in the Act.
- 8 As security for the fees and any monetary obligation owing, the Grantor:
- a) grants to the Secured Party a Security Interest, being a Charge over the Horse AND any proceeds realised from either the sale thereof or any insurance policy relating thereto.
 - b) grants the Secured Party a Security Interest over all of the Grantor's Livestock;
 - c) grants the Secured Party a Security Interest in all present and after acquired PPSA personal property.
 - d) consents to the registration of the Security Interest created by this Agreement on the Register; and
 - e) consents to the Secured Party registering a Financing Statement and/or Financing Change statement with the Register
- 8 The Grantor consents to the Secured Party obtaining any further information required to complete and register any Financing Statement or any Financing Change statement with the Register.
- 8 The Grantor will:
- a) indemnify and, upon demand, reimburse the Secured Party for all expenses incurred in searching, registering and/or discharging a Financing Statement or any other document with the Register and any reasonable enforcement fees and expenses in relation to such Security Interests including in the seizure of and disposal of the Collateral and entry onto land upon which the Livestock is located; and
 - b) not grant any Encumbrance or Security Interest to any other person in the Horse without first obtaining the consent in writing of the Secured Party. The Secured Party will be entitled, at its sole discretion, to withhold consent without providing a reason.
- 8 The Grantor acknowledges and waives its rights to notice as a debtor or Grantor under sections 95, 120, 121(4), 129(2)(a), 130, 132(3)(d), 132(4), 135 and 137(2) of the Act.
- 8 The Grantor declares that, to the extent permitted under the Act, sections 142 and 143 of the Act will not apply to this Agreement and the Security Interests granted under this clause 8.
- 8 The Secured Party will discharge the registration of the Security Interest on the Register when the secured obligations of the Grantor under this Agreement are satisfied.
- 8 The Grantor acknowledges that at the time the Security Interest created by this Agreement is made:
- a) it is granted for value;
 - b) it is granted to enable, amongst other things, the Horse to be fed or developed; and
 - c) the Horse was held by the Grantor

and, as a result, the Security Interest is a "priority interest" in livestock pursuant to section 86 of the Act.



- 8 The Secured Party will discharge the registration of the Security Interests on the Register when the secured obligations of the Grantor under this Agreement are satisfied.
- 8 The Grantor acknowledges the Horse is "Commercial Property" for the purposes of this Agreement.
- 8 The Grantor waives its right under s157 of the Act, to receive a Verification Statement.

Right to Seize and Dispose of the Horse If Fees Unpaid

- 8 In the event that:
 - a) the Secured Party retains possession of the Horse; and
 - b) a fee or monetary obligation is due to the Secured Party; and
 - c) the Secured Party has made demand in writing to the Grantor for payment of the fee or monetary obligation; and
 - d) the Secured Party has not received the fee or monetary obligation in accordance with the timeframe specified in the demand;

then, the Grantor agrees that Alma Vale may exercise any of the following at its discretion:

- i. retain possession of the Horse and have the ownership transferred to the Secured Party; or

dispose of the Horse; and may retain all or part of the proceeds of the disposal in payment of the fee or monetary obligation. 8.13 In the event that:

- a) the Grantor has possession of the Horse; and
- b) a fee or monetary obligation is due to the Secured Party; and
- c) the Secured Party has made demand in writing to the Grantor for payment of the fee or monetary obligation; and
- d) the Secured Party has not received the fee or monetary obligation in accordance with the timeframe specified in the demand;

then, the Grantor acknowledges and agrees that the Secured Party is entitled to seize the Horse pursuant to section 138C of the Act.

- 8 The Grantor consents to agents of the Secured Party entering onto the Grantor or third-party property for the purpose of seizing the Horse and consents to indemnify the Secured Party with respect to any trespass claims should Alma Vale need to seize the Horse from a third-party premises.

9 Transfer of Title

- 9 The Owner agrees not to enter into a sale, assignment or transfer of the Horse without the consent of Alma Vale. Any such purported transfer will be in default of this Agreement. Alma Vale agrees that it will not unreasonably withhold its consent upon full payment of any fee or monetary obligation.

10 Owners Warranty & Responsibilities

- 10.1 The Owner warrants, covenants and agrees with Alma Vale:
 - a) that the Owner is the registered Stud Book owner of the Horse with full power and authority to enter into each of the provisions of this Agreement;
 - b) that the Owner warrants the full disclosure of the provisions of this Agreement to each (if any) other owner, part owner, lessee, partner, syndicate member, syndicate manager, company, corporate trustee or other person who is legally recognised as an owner of the Horse, and has the authority to enter into this Agreement binding each of them jointly and severally;
 - c) that the attached Schedule 1 must be completed and returned to Alma Vale and all registration documents lodged with Alma Vale;
 - d) failure to return Schedule 1 will not negate the terms of this Agreement.
 - e) that the correct Horse is delivered to the Farm;
 - f) the information provided to Alma Vale is accurate and current as at the date of providing such information;
 - g) that upon delivery to the Farm, the Horse is free of disease or infection and is in sound condition and that all vaccinations are up to date;
 - h) that upon leaving the Farm the Horse shall be deemed to have been delivered to the Owner;
 - i) that the Owner will provide at least 48 hours' notice to Alma Vale before removing the Horse;

- j) the Owner authorises Alma Vale to pay all creditors who have provided services or supplies to the Owner's Horse. Alma Vale is authorised to deduct these costs from any sale proceeds, or in the alternative the Owner agrees to reimburse Alma Vale all such payments before the removal of the Horse from the Farm; and
- k) that if any Horse is entered for sale in a public auction, that it will be entered by Alma Vale as agent
- l) The Owner warrants that the Horse is not subject to an existing Encumbrance at the time of entering into this Agreement.
- m) the Owner will not deliver the Mare to the Farm unless it has been vaccinated against the Hendra virus and such vaccination is recorded on the Health4Horses website. The Owner acknowledges and agrees that Alma Vale may refuse to accept the Mare onto the Stud and to Cover the Mare in the event that the Owner has not complied with this clause. Further, the Owner agrees to indemnify and keep indemnified Alma Vale from any Claims made against it as a result of the Mare not being vaccinated against the Hendra virus

11 Advice

- 1 The Owner acknowledges that any advice in respect to the general state of the thoroughbred market, any financial advice or investment advice or advice in relation to the health, wellbeing or value of the Horse by Alma Vale to the Owner is of general nature only and it does not take into account the individual circumstances, objectives, financial situation or needs of the Owner. The Owner is advised to consult with their own independent financial and /or investment advisor prior to the auction.
- 2 Alma Vale may disclose information to other parties including advisors, sales companies, bloodstock agents, on the internet or in publications, to potential buyers, or to clients of Alma Vale both existing and potential in respect to the sale of the Horse.

12 Insurance

- 1 The Owner acknowledges that the agistment and rearing of thoroughbred racehorses is a high-risk activity and the Owner is required to insure against such losses.
- 2 The Owner acknowledges;
 - a) At all material times, it is the sole responsibility of the Owner to arrange insurance for the Mare;
 - b) It is the sole responsibility of the Owner to communicate any treatment or provision of services in accordance with any applicable insurance policies pertaining to the Horse to the Insurer; and
 - c) That the Stud has the authority to contact the Insurer and inquire whether payment has been made to the Owner and may rely on this Agreement as confirmation of such authority.
 - d) That the Stud has the authority to contact the Insurer and inquire whether payment has been made to the Owner and may rely on this Agreement as confirmation of such authority
- 3 At all material times, the onus of informing the Insurer as to any potential Claims made in respect of the Horse remains with the Owner solely, regardless of any undertaking given by the Stud and/or its agents, employees or contractors. The Owner must notify the Stud of the existence and terms of any insurance policies and provide copies of such policies together with a certificate of currency.
- 4 The Owner must immediately disclose to Alma Vale any claim may in respect of the Horse and any payment made by an insurance company in respect of such claim.
- 5 The Owner acknowledges that Alma Vale is not responsible and cannot be held responsible for any incidents which may void any insurance policy that the Owner has for the Horse.

13 Hold Blameless Acknowledgement – Release & Indemnity

- 1 The Owner:
 - a) Acknowledges and agrees that they have been given the opportunity to inspect the Farm and its facilities and that they meet the standard applicable to the thoroughbred industry and that Alma Vale shall endeavour to provide all care good husbandry and attention to the Horse. Alma Vale will be held blameless by the Owner in respect to any infection, disease, death or Claims in respect to the Horse.
 - b) Releases Alma Vale, its owners, directors and shareholders, employees, servants, and agents from any Claims.
 - c) Agrees to indemnify and keep indemnified Alma Vale against any liability or loss arising from, and any costs, charges, expenses and liabilities incurred in relation to any Claims



relating to the Horse and in each case, including but not limited to, Solicitor/Client legal costs and expenses on a full indemnity basis.

- 1 Further, Alma Vale shall not be liable for any negligent act or any loss, damage or Claims of whatsoever nature or howsoever arising out of this Agreement from injury, sickness, disease or death caused to or sustained by the Horse and/or any progeny or to a third party whilst under the care or control of Alma Vale or its employees and agents. Alma Vale shall not be liable to the Owner for any loss, damage, costs or expense arising out of any injury, damage, death or Claims which may arise or be caused and notwithstanding the same be attributable to or is in part attributable to recklessness, negligence, forbearance or neglect by Alma Vale, its servants or agents or any other person in whose care or control Alma Vale may place the Horse.

14 Legal Advice

The Owner represents and warrants that it has obtained independent legal advice or has been given the opportunity to seek legal advice in relation to the terms and effect of this Agreement.

15 Lien and Power of Attorney

- 15.1 The Owner grants Alma Vale a lien in the Horse, all insurance policies relating to the Horse, all Stud Book returns, all mare and foal cards and replacement mare and foal cards and the proceeds from the sale of the Horse. Page 4 15.2 The Owner appoints Alma Vale as its Attorney:
 - a) To execute and file any liens, irrevocable authorities, all and any notices and documents under the PPSA or to the Stud Book, in any jurisdiction or to any entity believed to be appropriate to secure any obligation of the Owner to Alma Vale, whether arising by the owing of fees or monetary obligations or otherwise.
 - b) Without notice to the Owner, take possession of the Horse and either retain the Horse in lieu of the obligation, or re-sell the Horse privately or publicly in a manner in its sole discretion it believes to be advisable, in which event Alma Vale shall credit the proceeds of the sale, after expenses of sale and maintaining the Horse, to the Owner's obligation to Alma Vale.

This right is in addition to all other rights to which Alma Vale is entitled under law.

16 Notice

- 1 Any notice given by Alma Vale to the Owner pursuant to this Agreement shall be deemed to be served on the Owner the next business day in Queensland after the sending of such notice by email to the addressed provided by the Owner in Schedule 1 or such other address notified to Alma Vale by the Owner in writing notwithstanding that any such notice may not be received by the Owner.

17 Amendments

- 1 Alma Vale reserves the right to review these terms and conditions at any time. If following any such review, there is to be any change to these terms and conditions, then that change will take effect from the date on which Alma Vale notifies the Owner of such change.

18 General

- 1 If any provision of these terms and conditions are invalid, void, illegal or unenforceable, the validity, existence, legality, and enforceability of the remaining provisions shall not be affected, prejudiced, or impaired.
- 2 The failure by Alma Vale to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect Alma Vale' right to subsequently enforce that provision.
- 3 This Agreement is governed by and construed in accordance with the laws of Victoria. The parties submit to the exclusive jurisdiction of its courts and courts of appeal from them. The parties will not object to the exercise of jurisdiction by those courts on any basis.

19 Acceptance

- 1 This Agreement may be executed by way of electronic signature and, if so, shall be taken to be an original.
- 2 The Owner's acceptance of these terms is signified by signing this Agreement or delivery of the Horse, or horses, to the Farm
- 3 This Agreement is taken to be accepted by the continued Agistment of the Horse on the Property following the delivery of this Agreement to the email address of the Owner, identified in Schedule 1.

Dated this _____ day of _____ 2024

SIGNED by the
Manager for and
on behalf of the
Owner:

Print Full Name:

SIGNED for and on behalf
of **Alma Vale** by its
Authorised
Representative:

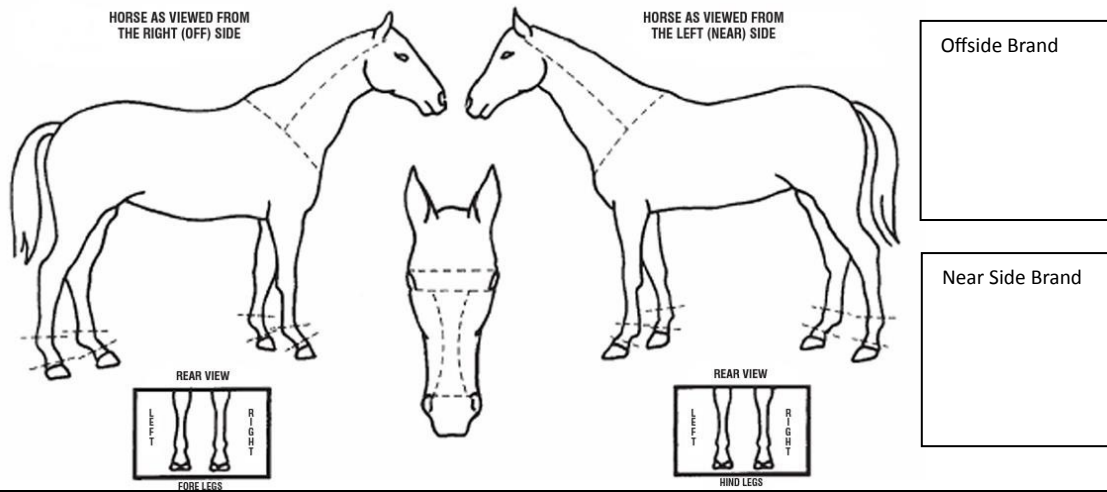


Print Full Name:

Verna Metcalfe



SCHEDULE 1



ITEM 1: HORSE			
Name:			
Sire:			
Dam: Colour: Present Location of			
Horse: Known prior operative procedures	Year of Birth:	Microchip:	
Name of Walk in Farm?			
Covering Stallion	Nomination Fee:		
Is the Horse insured?	Yes <input type="checkbox"/> No <input type="checkbox"/>	Insurance Company and/or Broker:	
Does the Horse have any behavioral issues the Studmaster should be aware of? (if yes, please give details)	Yes <input type="checkbox"/> No <input type="checkbox"/>	Details:	
Is the Horse a 'windsucker'?	Yes <input type="checkbox"/> No <input type="checkbox"/>	Has the Horse been vaccinated for the Hendra Virus? If yes, provide date of latest vaccination:	Yes <input type="checkbox"/> No <input type="checkbox"/>
Has the Horse been vaccinated for Herpes Virus? If yes, provide date of latest vaccination:	Yes <input type="checkbox"/> No <input type="checkbox"/> Date:	Has the Horse been vaccinated for Rotavirus? If yes, provide date of latest vaccination:	Yes <input type="checkbox"/> No <input type="checkbox"/> Date:
Has the Horse been vaccinated for Tetanus? If yes, provide date of latest vaccination:	Yes <input type="checkbox"/> No <input type="checkbox"/> Date:	Has the Horse been vaccinated for Strangles? If yes, provide date of latest vaccination:	Yes <input type="checkbox"/> No <input type="checkbox"/> Date:

SCHEDULE 2

Fees

Agistment Category	Rate (per day)
Speller	\$
Speller – Yard	\$
Speller – Stabled (Night)	\$
Speller – Box rest	\$
Dry Mare	\$

