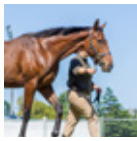
# TASMANIAN YEARLING SALE

## *24 February 2020*

INVERESK SHOWGROUNDS, LAUNCESTON, TASMANIA

Nomination Fee: $660 inc GST

NOMINATIONS CLOSE FRIDAY 9 AUGUST 2019



# REAL BUYERS

## *Know Tassie is worth the journey*

"I bought my favourite colt of the year in Tassie, buying there is a no brainer the way the local product is performing on the main stage."

Brad Spicer who purchased lot 63 for $115,000

"There is definitely a good buying bench down here this year from the mainland, mainly Victoria, but also South Australia, NSW and Queensland, and I think that is off the back of Tasmanian-sired horses going well."

Bart McCulloch, Grenville Stud

"We are pretty parochial and just like me she is a total Tasmanian product, she was bred and foaled here, bought out of a Tasmanian sale, broken in here by a Tasmanian horseman and trained here."

Adam Trinder on Mystic Journey

## IN 2019

NEW RECORD GROSS

**$2,999,000**

**12**

VENDORS ACHIEVED A

**100%**

CLEARANCE

RACING WOMEN'S BONUS

**BUYER INCENTIVES**

GROWING THE MARKET

**305%**

GROWTH IN LOCAL SPEND

THANKS TO

**TASBRED**

**63**

INDIVIDUAL BUYERS FOR

108 HORSES

**COMPLETE YOUR ENTRIES ONLINE NOW!** Use the Magic Millions Online Entry facility at **magicmillions.com.au**

# MAGIC MILLIONS 2020 TASMANIAN YEARLING SALE

Sire: | Colour: | Sex:

Dam: | Foaling Date: / 2018

Dam Sire: | Brands: NS OS Brand Index Number

Is this Yearling a foal share: YES ☐ NO ☐

Microchip Nº: ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

Location for pre-sale inspection (property name & address):

State: | Postcode: | Email:

Contact Name: | Phone:

Name of vendor to appear in catalogue:

Address:

Suburb: | State: | Postcode:

Phone: | Fax:

Mobile: | Email:

Proceeds of sale Cheque: ☐ EFT: ☐ If EFT – Account: | BSB:

Payable to (Only one payee):

Address:

Suburb: | State: | Postcode:

Phone: | Fax:

Mobile: | Email:

Australian Business Number (ABN): If no ABN, please complete the below Declaration by a non GST registered vendor.

How many owners are in the horse?:

What is the percentage of GST ownership?: If NIL, please complete declaration below.

## DECLARATION BY A NON GST REGISTERED VENDOR

Please tick one box:

☐ Section (A) The supply is made to you in my capacity as an individual, and the supply is made in the course of an activity that is a private recreational pursuit or hobby, or is wholly of a private or domestic nature for me.

☐ Section (B) The supply is made by us as an entity (other than an individual) and we are not carrying on an enterprise in Australia.

☐ Section (C) I (or the supplier that I represent) am/is a non-resident who is not carrying on an enterprise in Australia.

Signed: | Dated:

Please complete all of the above details and sign below to acknowledge that you have agreed to be bound by the **CONDITIONS OF NOMINATION**. Please **DO NOT** send payment with this Nomination Form. **NO ENTRY WILL BE ACCEPTED IF NOT SIGNED AND ALL GST DETAILS COMPLETED.**

Name: | Signature: | Date: ☐☐ / ☐☐ / ☐☐

## OFFICE USE ONLY

A/C CODE: | ENTRY ID: | GST STATUS:

**COMPLETE YOUR ENTRIES ONLINE NOW!** Use the Magic Millions Online Entry facility at **magicmillions.com.au**

# MAGIC MILLIONS 2020 TASMANIAN YEARLING SALE

Sire: | Colour: | Sex:

Dam: | Foaling Date: / 2018

Dam Sire: | Brands: NS OS Brand Index Number

Is this Yearling a foal share: YES ☐ NO ☐

Microchip Nº: ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

Location for pre-sale inspection (property name & address):

State: | Postcode: | Email:

Contact Name: | Phone:

Name of vendor to appear in catalogue:

Address:

Suburb: | State: | Postcode:

Phone: | Fax:

Mobile: | Email:

Proceeds of sale Cheque: ☐ EFT: ☐ If EFT – Account: | BSB:

Payable to (Only one payee):

Address:

Suburb: | State: | Postcode:

Phone: | Fax:

Mobile: | Email:

Australian Business Number (ABN): If no ABN, please complete the below Declaration by a non GST registered vendor.

How many owners are in the horse?:

What is the percentage of GST ownership?: If NIL, please complete declaration below.

## DECLARATION BY A NON GST REGISTERED VENDOR

Please tick one box:

☐ Section (A) The supply is made to you in my capacity as an individual, and the supply is made in the course of an activity that is a private recreational pursuit or hobby, or is wholly of a private or domestic nature for me.

☐ Section (B) The supply is made by us as an entity (other than an individual) and we are not carrying on an enterprise in Australia.

☐ Section (C) I (or the supplier that I represent) am/is a non-resident who is not carrying on an enterprise in Australia.

Signed: | Dated:

Please complete all of the above details and sign below to acknowledge that you have agreed to be bound by the **CONDITIONS OF NOMINATION**. Please **DO NOT** send payment with this Nomination Form. **NO ENTRY WILL BE ACCEPTED IF NOT SIGNED AND ALL GST DETAILS COMPLETED.**

Name: | Signature: | Date: ☐☐ / ☐☐ / ☐☐

## OFFICE USE ONLY

A/C CODE: | ENTRY ID: | GST STATUS:

# CONDITIONS OF NOMINATION - MAGIC MILLIONS 2020 TASMANIAN YEARLING SALE

## Auctioneer's Licence No.: 2005419

1. The Selling Agent is licensed under the PAMD to conduct auctions of livestock;
2. In these Conditions of Nomination:
"ARR" means the Australian Rules of Racing as adopted, administered and amended by RA from time to time;
"ASB" means the Australian Stud Book which is the official record and publication of thoroughbred bloodlines for horses in Australia;
"ATO" means the Australian Taxation Office;
"EU" means European;
"GDPR" means the EU General Data Protection Regulation which came into effect on 25 May 2018;
"GST" has the meaning given to it in the GST Act;
"GST Act" means A New Tax System (Goods and Services Tax) Act 1999 (Cth) as amended from time to time;
"Lot" means a horse, including a gelding, colt, filly or mare (and includes one or more lot) to be nominated for the Sale by the Vendor on the Official Nomination Form;
"Magic Millions Export Declaration Form" means the export declaration form prescribed by and available upon request from the Selling Agent and as required by the GST Act;
"NDB" means the Privacy Amendment (Notifiable Data Breaches) Act 2017 which came into effect on 22 February 2018
"Nomination Fee" means the fee, if any, set out in the Official Nomination Form;
"Official Nomination Form" means the standard official nomination form nominated by the Selling Agent from time to time a copy of the current form of which is attached to these Conditions of Nomination and available within the online entries facility located on the Selling Agent's and the Promoter's website;
"PAMD" means the Property Agents and Motor Dealers Act 2000 and as amended from time to time;
"Partnership" means Magic Millions Sales Partnership (ABN 99 519 379 694);
"PPSA" means the Personal Property Securities Act 2009 which took effect on 30 January 2012 and as amended from time to time;
"PPSR" means the personal property securities register established pursuant to the PPSA;
"PRA" means the Principal Racing Authority in each state and territory in Australia which control, regulate and supervise racing in each state and territory in Australia with approval of but subject to RA;
"Promoter" means Magic Millions Promotions Pty Ltd (ABN 41 088 197 200) or any other party identified in the Sale Catalogue or other documentation issued in respect of the Sale as the promoter or sponsor of the Sale or of a closed race series or incentive race series in association with which the Sale is conducted;
"RA" means Racing Australia which is the peak national administration body for thoroughbred racing in Australia, responsible for the governance of the ARR and the RASB in an effort to ensure worldwide best practice standards of integrity and animal welfare. Each PRA is a member of RA;
"RASB" means the rules of the Australian stud book as administered by the ASB from time to time;
"Repository" means the repository to be established by the Selling Agent / Promoter prior to the commencement of the Sale, the conditions of entry into which and use of the service of which will be set out in the Repository Conditions displayed at the Repository at least four (4) days prior to the commencement of the Sale;
"Repository Conditions" means the conditions of entry into the Repository for the purpose of inspecting the X-Rays and other terms and conditions relating to the terms and conditions of access and inspection as displayed at the Repository;
"Sale" refers to any one or more of the following Sale/s for which the Lot is nominated, accepted and subject to the Vendor's rights of withdrawal, offered for sale by way of auction conducted by the Selling Agent:
The Magic Millions 2020 Tasmanian Yearling Sale, to be held at the Inveresk Showgrounds, Launceston, Tasmania, on the 24th day of February, 2020.
"Sale Catalogue" means the catalogue to which the Sale relates, and which includes the Lot;
"Selling Agent" means Magic Millions Sales Pty Ltd (ABN 54 078 396 317) having auctioneers and agents licence number 2005419 and includes its officers and agents;
"TBA" means the Thoroughbred Breeders Australia Limited (ABN 34 0034 322 28);
"The Act" means the Privacy Act 1988 (Cth) as amended from time to time;
"The Code" means the Australian Thoroughbred Sales Code of Conduct as amended from time to time;
"X-Rays" means the set of X-Rays deposited at the Repository, albeit physical or digital format, (along with any reports, certificates, notes, writings or information deposited therewith, including all historical records of operations or treatment provided to each Lot) made available by the Vendor with respect to a Lot for inspection by the Purchaser's qualified licensed veterinary expert, such X-Rays being in the minimum number and taken strictly in accordance with the specifications detailed in the Repository Conditions and otherwise subject to the Repository Conditions displayed at the Repository, the terms of which the Purchaser acknowledges as having read and understood prior to the purchase of a Lot.

## APPOINTMENT OF PROMOTER

3. The Vendor agrees that all advertising, marketing and promotion in respect of the Sale (including the Lot in it) will be carried out by the Promoter, a company engaged in the business of promoting and marketing throughout the world, thoroughbred sales, races and related events, as well as performances, exhibitions, social events, conferences and events in the general entertainment industry and the Vendor hereby confirms the Promoter's appointment and role in that behalf by the Selling Agent.

## VENDOR'S APPOINTMENT OF THE SELLING AGENT

4. The Vendor (subject to his compliance with these Conditions of Nomination) hereby appoints and authorises the Selling Agent to:

4.1 Act as the sole and exclusive agent of the Vendor to sell the Vendor's Lot at the Sale, or prior, or subsequent, thereto with the Vendor's consent, where the Lot is not sold at the Sale, privately and outside of the auction at a price nominated by the Vendor at any time from the close of nominations to a date sixty (60) days after the Sale, and these Conditions of Nomination shall apply insofar as is possible, to such private Sale;

4.2 Collect the full or any part of the purchase price including, if applicable, any GST for the Lot on behalf of the Vendor by means of cash, personal cheque, or otherwise by the Selling Agent at the Selling Agent's discretion;

4.3 Deliver the Lot sold on the Vendor's behalf prior to full payment of the purchase price including, if applicable, any GST on the Lot, such delivery being given by the Selling Agent at the Selling Agent's absolute discretion;

4.4 Determine in its absolute discretion whether the Lot is suitable for the Sale, the manner in which and the time and place at which the Sale is to be conducted, and whether the opinion of a Veterinary Surgeon at the Vendor's cost should be obtained in respect of the condition of the Lot;

4.5 Deduct and retain from the gross purchase price payable for the Lot, any commission, Nomination Fee or expenses owing to the Selling Agent, including any GST payable. These amounts will include but will not be limited to those referred to in Conditions 8, 9 and 10 of these Conditions of Nomination;

4.6 Return the Lot to the Vendor if a sale is not effected or any account of the Vendor is not settled within seven (7) days of the Sale, or at any extended date by approval of the Vendor;

4.7 Detain a passed-in Lot or the Lot bought back by the Vendor until all Sale charges and if applicable GST are paid, the Selling Agent being entitled to claim a security interest and register the same on the PPSR in respect of any outstanding fees commissions, GST or charges;

4.8 Disclose the name, description and address of the Vendor to a bidder or Purchaser if it considers it appropriate, or in the case of any dispute touching on any sale of the Lot. In every case it is agreed that the remedy of the Purchaser shall be against the Vendor and not under any circumstances against the Selling Agent;

4.9 Accept the rescission of any sale, allow any purchaser an extension of time for payment, or agree to any variation of the conditions of sale as printed in the Sale Catalogue on behalf of the Vendor should the Selling Agent decide in its absolute discretion that any such action is justified;

4.10 Bid up to the reserve price as set by the Vendor without incurring any liability to the Vendor in the event of the Lot not selling for an amount equal to or less than the reserve price.

4.11 The Vendor agrees that the Selling Agent reserves the right to:-

4.11.1 Reject any nomination at any time for such reason as the Selling Agent shall deem appropriate, in its sole discretion, and the Selling Agent shall then return any Nomination Fee paid only if the rejection is without reasonable cause;

4.11.2 Determine the order of sale of all nominations and acceptances for the Sale;

4.11.3 Assign stabling facilities in its sole discretion and the Selling Agent shall have no obligation to assign the same or similar stabling facilities which may have been assigned to the Vendor at previous sales;

4.11.4 Set a minimum bid (upset price) for the horses sold in this Sale, in its sole discretion;

4.11.5 Refuse to sell any horse by auction if the Selling Agent has knowledge that the said horse has been sold privately prior to the Sale.

5. The Selling Agent shall pay the proceeds of the sale including any applicable GST to the person or persons nominated as the person to be paid such proceeds, on the Official 8 Nomination Form, whose receipt shall be a sufficient discharge of the Selling Agent's obligations in respect of such proceeds.

6. All nominations for the Sale must be submitted on the Official Nomination Form, duly signed by the Vendor or for and on behalf of the Vendor by the Vendor's agent, or submitted in accordance with the provisions of the Selling Agent's online entries facility. The Official Nomination Form must reach the office of the Selling Agent (PO Box 5246, Gold Coast Mail Centre, Queensland, 9726, or submission via the Selling Agent's online entries facility) by no later than the specified closing date set out in the Official Nomination Form.

7. Subject to the Vendor executing the Official Nomination Form, or agreeing to the Conditions of Nomination via the Selling Agent's online entries facility, prior to the offering for sale of the Lot by the Selling Agent, the Selling Agent is exempted from the requirement of Chapter 12 of the PAMD from maintaining a trust account for the deposit of the proceeds of sale of the Vendor's Lot and the Vendor acknowledges the existence of such exemption;

## COMMISSIONS DUE TO THE SELLING AGENT

8. The Vendor will pay the following amounts to the Selling Agent:-

8.1 A commission at the rate of 6.6% (inclusive of GST) on the Lot sold or bought back by the Vendor; or

8.2 Save that in the event the Lot, which is a Yearling, is sold or bought back for an amount in excess of $200,000 the rate of commission for the part of the price in excess of $200,000 is reduced by 2.75% (inclusive of GST) for the Sale; or

8.3 In the event that the Lot is not sold or bought back by the Vendor, a commission at the rate of 2.75% (inclusive of GST) on the Reserve Price of any passed-in Lot.

## FEES AND CHARGES DUE TO THE PROMOTER

9. The Vendor will pay the following fees and charges to the Promoter in respect of its promoting and marketing of the auction sale and the race series:-

9.1 A promotional fee equivalent to an amount being 3.3% (inclusive of GST) of the purchase price of the Lot sold or bought back by the Vendor, for the Sale and;

9.2 The Nomination Fee (including GST) as specified on the Official Nomination Form and;

9.3 The Nomination Fee (including GST) will be invoiced by way of a written acceptance of the Lot into the Sale and;

9.4 The Nomination Fee (including GST) must be paid for in full within fourteen (14) days of invoicing.

9.5 The Vendor will not be entitled to any refund in respect of any payment pursuant to these Conditions of Nomination for the Promoter save as is expressly provided in these Conditions of Nomination.

## TBA LEVY

10. The Vendor hereby irrevocably authorises the Selling Agent to deduct a marketing levy on behalf of the TBA in the amount of 0.385% (inclusive of GST) of the purchase price of the Lot sold or bought back by the Vendor. The marketing levy will be forwarded by the Selling Agent to the TBA within forty-two (42) days of all monies due and owing to the Vendor pursuant to the sale of the Vendor's Lot.

## VENDOR'S OBLIGATIONS AND WARRANTIES

11. The Lot accepted for the Sale shall be submitted to the representatives of the Selling Agent for inspection and each Lot must meet the requirements of the ASB at the Vendor's cost and expense.

12. The Vendor shall indemnify and hereby indemnifies the Selling Agent against any claim by a Purchaser or any other person arising out of the Vendor's failure to comply with the ASB requirements (including any payment of fees and GST if applicable). The Vendor acknowledges that the Selling Agent is entitled to a reasonable fee for any work done to ensure the Vendor's compliance with the ASB requirements.

13. The Vendor shall supply to the Selling Agent all documents required for the transfer of ownership of the Lot sold within seven (7) days of the conclusion of the Sale. Should the Vendor not deliver such documents to the Selling Agent within the said time limit, the Vendor irrevocably authorises the Selling Agent to order a new / replacement set of documents at the Vendor's cost and expense.

14. The Vendor shall be responsible for verifying the accuracy of all information published in the Sale Catalogue and warrants to the Selling Agent and any Purchaser the accuracy of such information except where the Vendor notifies the Selling Agent in writing (in accordance with these Conditions of Nomination) of any inaccuracy in such information prior to the date of the Sale.

15. The Vendor or his duly authorised representative warrants that he will disclose to the Selling Agent the true owner of the Lot nominated to any person or party for the Sale at least seven (7) days prior to the Sale. The Vendor authorises the Selling Agent to disclose the true owner of the Lot at the Selling Agent's absolute discretion.

16. The Vendor warrants to the Selling Agent that the person completing and submitting the Official Nomination Form is duly authorised to complete and submit the Official Nomination Form on behalf of the Vendor and, carry out all the obligations of the Vendor as set out in the Nomination Form and provide the Vendor warranties set out in the Official Nomination Form.

17. The Vendor or his duly authorised representative shall be present at the Sale venue at all times during which the Sale is being conducted and shall immediately correct any incorrect statements or representations made by the Selling Agent regarding the Lot for which the Vendor or Vendor's agent is responsible, failing which correction the Vendor shall be deemed to authorise the statement and warrant to the Selling Agent and any Purchaser the truth of any statements or representations made by the Selling Agent.

18. The Vendor will produce for the Sale the Lot without any obvious physical defects. Should the Selling Agent be of the opinion that the Lot is not suitable for sale, it has the right at its absolute discretion, to reject and withdraw the Lot from the Sale, remove it from the grounds, and consign it to the address of the Vendor as it appears on the Official Nomination Form, at the Vendor's risk and expense.

19. Subject to Condition 15 of these Conditions of Nomination, the Vendor warrants to the Selling Agent that he is the true owner of the Lot nominated for the Sale or is duly authorised to sell the Lot on the owner's behalf and that he is able to transfer good title to the Lot free from any mortgage, lien, charge, bill of sale (whether registered or not) or security interest as defined in the PPSA, and any other adverse interest or encumbrance except where such interest has been notified in writing to the Selling Agent prior to the Sale and such interest has been acknowledged by the Selling Agent. The Vendor irrevocably authorises the Selling Agent to register its interest in the Lot against the Lot and the Vendor to secure payments owing to the Selling Agent by the Vendor or payments made by the Selling Agent to the Vendor on account of the purchase price where the Purchaser of the Lot has not paid all or part of the purchase price. If the owner of the Lot is a company, the Vendor warrants and represents to the Selling Agent that there are no security interests as defined in the PPSA affecting the Lot. The Vendor warrants and represents that the Lot is being sold in the ordinary course of business.

20. Except as disclosed in writing to the Selling Agent prior to the Sale, the Lot nominated for the Sale shall be free of any symptoms associated with windsucking, wobbling, roaring, impaired vision, botulism, equine influenza, equine morbillivirus (Hendra virus), nipah virus or any other virus.

21. Except as disclosed in writing to the Selling Agent prior to the Sale, the Vendor warrants that the Lot which is a male has not had one or both testes removed, save insofar as such circumstance has been disclosed to the Selling Agent prior to the Sale of such Lot.

22. In the event that the Selling Agent cancels the Sale the Vendor has no claim against the Selling Agent for damages or costs or expenses other than the repayment of the Nomination Fee paid by the Vendor or save as is expressly set out in these Conditions of Nomination.

23. The Lot nominated for the Sale cannot be withdrawn by the Vendor, after the assigning of the Lot's number for the Sale Catalogue, without the forfeiture of the Nomination Fee, except in the event of injury, death or illness of the Lot. Apart from death of the Lot (in which case the Nomination Fee shall be refunded in full), in all cases of alleged injury or illness if the Vendor at his expense produces a Veterinary Certificate, within thirty (30) days from the completion of the sale, confirming the existence of the injury or illness alleged, two thirds of the Nomination Fee shall be refunded. Should the Vendor not produce an acceptable Veterinary Certificate, the Vendor shall pay to the Selling Agent 6.6% (including GST) of the median purchase price for the Selling Session in which the withdrawn Lot was listed, as liquidated damages, in addition to the Nomination Fee.
The Vendor acknowledges that by execution of the Official Nomination Form that the Selling Agent distributes its Sale Catalogue on a worldwide basis to thousands of potential Purchasers who make arrangements to be present at the Sale because of Lots listed in the Sale Catalogue and acknowledges the credibility of the Sale is diminished if catalogued Lots are withdrawn without good and valid excuse.

24. Should the Vendor sell privately the Lot accepted for the Sale during the period from the closing date for nominations until sixty (60) days after the Sale (the agency period), the Vendor shall promptly pay to the Promoter and Selling Agent an amount equal to the total charges including GST set out in Conditions 8, 9 and 10 of these Conditions of Nomination.

25. The Vendor shall comply in all respects with the rules of the Sale complex displayed within the office block at the Sale complex.

26. In respect of any description used in, or in connection with the Sale the parties hereto agree that the expression 'colt' includes rig or crypt orchid, namely male animals in which one or both testes have not descended into the scrotum from the abdomen.

27. The Lot entered by the Vendor (including its storage by the Selling Agent) shall be at the Vendor's sole risk and expense notwithstanding any negligence on the part of the Selling Agent and the Vendor indemnifies the Selling Agent against all claims, actions, loss, damages, costs and expenses incurred including stabling and feed.

28. The Vendor agrees to be bound by the conditions of sale as printed in the Sale Catalogue, including any variations made thereto at the absolute discretion of the Selling Agent.

29. The Vendor shall promptly advise the Selling Agent of any credit arrangements made with a Purchaser of the Lot (which shall be at the Selling Agent's discretion) and shall sign an acknowledgment of such arrangements as directed by the Selling Agent.

30. The Vendor acknowledges that the Selling Agent acts merely as agent for the Vendor and gives no warranty that any Purchaser will complete a purchase in accordance with the conditions of sale as printed in the Sale Catalogue, nor is the Selling Agent under any liability in respect of the Sale should the Purchaser fail to complete their purchase save as is expressly provided in these Conditions of Nomination.

31. Subject to the conditions of sale as printed in the Sale Catalogue, if the Selling Agent delivers the Lot to the Purchaser of the Lot prior to the Selling Agent having received payment by cash or otherwise for the Lot, the Selling Agent will use its best endeavours to secure the performance by the Purchaser of its obligation to pay the purchase price and any applicable GST except where:

31.1 The Selling Agent has formed the opinion that there is a bona fide dispute between the Vendor and the Purchaser as to the Purchaser's obligation to pay for the Lot;

31.2 The Vendor enters directly into any credit arrangement or terms with the Purchaser;

31.3 The sale is terminated or unenforceable for any reason;

31.4 The Vendor agrees to any variation of the normal terms of the contract for the purchase of the Lot (including without limitation terms as to the time for payment) without the prior written consent of the Selling Agent;

31.5 The Vendor consents to the delivery of the Lot by the Selling Agent;

31.6 The Vendor has not paid any monies due and owing by the Vendor to the Selling Agent on any account whatever.

32. The liability of the Selling Agent pursuant to, or incidental to, its appointment in respect of the Lot shall be limited to the purchase price accepted by the Selling Agent as the price payable less any monies owing to the Selling Agent by the Vendor on any account, (including amounts due and owing by the Vendor to the Selling Agent for any lot on any previous sale conducted by the Selling Agent where the Vendor has appointed the Selling Agent as its selling agent) including any GST applicable thereon.

33. The Vendor agrees that if the Selling Agent pays to the Vendor any amount in respect of the purchase price and if applicable GST for the Lot prior to the Selling Agent receiving from the Purchaser the full purchase price including any applicable GST of the Lot and/or the honouring of all security interests and promises and undertakings in favour of the Selling Agent tendered in respect thereto, the Vendor shall immediately execute and deliver to the Selling Agent authorities and documents in such form as the Selling Agent in its absolute discretion requires, so as to secure and authorise the Selling Agent to exercise through or on behalf of the Vendor all rights which the Vendor may have in respect of the Lot and / or any security interests and promises and undertakings in favour of the Selling Agent or other right held by the Vendor in his own right.

34. The Selling Agent guarantees to the Vendor that payment will be forwarded to the Vendor within forty two (42) days from the last day of the Sale, all monies due and owing to the Vendor pursuant to the sale of the Vendor's Lot but subject to the Selling Agent's right to withhold payment of all or part of the proceeds of such sale where the Selling Agent concludes that there is a bona fide dispute between the Vendor and the Purchaser as to the Purchaser's obligation to pay for the Lot.

35. The Vendor acknowledges that if the Vendor suffers a loss as a result of a failure by the Selling Agent to account to the Vendor for all or any part of the purchase price for the Lot, the Vendor does not have a right of compensation under the PAMD.

36. Appointment of Agent by Purchaser: indemnity with respect to directions and instructions on or before day of sale:

36.1 The Vendor accepts and acknowledges that the Purchaser may appoint the Auctioneer or another third party agent to bid on the Vendor's Lot on behalf of the Purchaser. Such appointment may be made by the Purchaser executing the Auctioneer's formal written appointment of agent form, or, informally by way of email, telephone contact or text message. The Vendor does not object to the Auctioneer or another third party agent acting as the agent for the Purchaser.

36.2 The Vendor and the Purchaser indemnify and will keep indemnified the Auctioneer and the Promoter against any claim arising out of any directions or instructions given by the Purchaser or its agents, consultants or employees, to the Auctioneer or their agents, consultants or employees pursuant to Condition 36.1, on or before the sale of any Lot where, for any reason, such directions and / or instructions are misinterpreted or not acted upon by the Auctioneer.

37. The Vendor agrees to indemnify and hereby indemnifies the Selling Agent against all loss, damage, costs and expenses of whatever nature incurred by the Selling Agent directly or indirectly as the result of the Vendor's non-compliance with any of the Conditions of Nomination or the conditions of sale as set out in the Sale Catalogue.

38. The Vendor agrees that the Nomination Fee remains a debt due and payable by the Vendor to the Selling Agent from the date of nomination (that is to say, at the date of execution by the Vendor of the Official Nomination Form) of the Lot notwithstanding the withdrawal of the Lot from the Sale and the Vendor acknowledges and agrees that the only basis upon which he may claim a repayment of the Nomination Fee from the Selling Agent is:

38.1 If the Selling Agent cancels the Sale in accordance with Condition 22 of these Conditions of Nomination, or

38.2 If the Lot is rejected and withdrawn in accordance with Condition 18 of these Conditions of Nomination or is not included in the Sale Catalogue.

39. The Vendor acknowledges that the duties and rights of the Selling Agent under these Conditions of Nomination, are severable and independent and any monies paid to either of them are payments to which they are entitled in their own right pursuant to these Conditions of Nomination.

40. In the event that any provision is unlawful or void, the parties agree that these Conditions of Nomination shall be construed so far as is possible so that the unlawful or void portion is an independent promise and is severable from the other conditions. Where such unlawful or void portion relates to any provision for fees or remuneration including if applicable GST then a term will be implied (so far as the law permits) that reasonable remuneration and expenses including if applicable GST will be payable for any services rendered by or on behalf of the Selling Agent to the Vendor.

41. The Selling Agent does not assume any responsibility for exporting horses.

42. The Vendor accepts, agrees and acknowledges the following:

42.1 The Selling Agent accepts no liability for any GST liability arising as between the Purchaser, the Vendor and the ATO in respect of the Lot sold by way of auction or private treaty;

42.2 That each Lot offered for sale will be invoiced with GST added to the purchase price in the event that the Vendor is registered for GST; In the event that the horse is purchased by a non-resident who is not registered for GST and that purchaser executes the required Magic Millions Export Declaration Form, the vendor acknowledges that subject to the export provisions as approved by the ATO this horse may be sold on a zero-rated basis at which time no GST will be charged on the invoice.

42.3 For the purpose of the GST Act the Vendor, not the Selling Agent, is the "supplier" and is responsible for determining whether the Purchaser is registered or required to be registered for GST purposes and that the Purchaser satisfies the requirements of the ATO as regards the export of the Lot.

43. The Vendor acknowledges that the Selling Agent acts as agent for the Partnership.

44. The Vendor acknowledges that the Selling Agent will make available the Repository at the complex for the purpose of the storing and examination of X-Rays, physical or digital, and other records required by the Repository Conditions or the relevant Sale Catalogue. The Vendor further acknowledges the Repository Conditions and agrees to be bound by them. The Repository Conditions will be displayed in the Repository and are available from the Selling Agent on request.

45. The Vendor accepts and acknowledges that prior to executing the Official Nomination Form, the Selling Agent has advised the Vendor that he should seek independent legal advice before signing the Official Nomination Form.

46. By executing the Official Nomination Form, the Vendor hereby appoints the Selling Agent's auctioneer to auction the Lot on behalf of the Vendor. The Vendor acknowledges having received a copy of the Official Nomination Form and in particular acknowledges his appointment of the auctioneer.

47. In the event that the Selling Agent, for whatever reason, pays to the Vendor, the amount due to the Vendor pursuant to Conditions 4 and 5 of these Conditions of Nomination prior to receiving payment for the Vendor's Lot from the Purchaser, the Vendor assigns to the Selling Agent all the Vendor's interest in the Lot to the Selling Agent or the Selling Agent's nominee.

48. The Vendor acknowledges the existence of the Code. The Selling Agent recommends that the Vendor acquaints himself with the Code.

49. Notwithstanding any other term or condition contained in these Conditions of Nomination, the Vendor hereby irrevocably authorises and directs the Selling Agent to pay the Selling Agent out of the sale proceeds of the Lot, any amount that may be due and owing to the Selling Agent prior to this Sale. For the sake of certainty, the Vendor assigns to the Selling Agent any irrevocable authority rights in favour of the Vendor where the Lot owned by the Vendor has been submitted for sale at this Sale by a party other than the Vendor. The Vendor appoints the managing director of the Selling Agent, from time to time, its attorney to do all things necessary and execute all documents to give effect to these Conditions of Nomination.

50. Where the Vendor (in the reasonable opinion of the Selling Agent) is in any way or in any capacity (by virtue of directorship, shareholding, trustee, beneficiary or otherwise) involved with or related to a Purchaser of the Lot offered for sale by the Vendor and the Vendor owes the Selling Agent any monies with respect to that Lot or any other lot sold at the Sale or any prior sale conducted by the Selling Agent, the Selling Agent may, in its absolute discretion, retain all or part of the purchase price paid by the Purchaser and apply the same to the debt owed by the Vendor to the Selling Agent. In such case the Selling Agent may, in its absolute discretion, refuse to pay out the Vendor for the purchase price for the Lot prior to receiving payment in full for the Lot or any other lot sold at the Sale or any prior sale conducted by the Selling Agent from the Purchaser.

51. The Vendor and the Purchaser indemnify and will keep indemnified the Selling Agent and the Promoter against any claim arising out of any telephone directions or instructions given by the Vendor and/or the Purchaser or their agents, consultants or employees, to the Selling Agent or the Promoter or their agents, consultants or employees, on or before the sale of the Lot where, for any reason, such telephone instructions are misinterpreted or not acted upon, for whatever reason, by the Selling Agent or the Promoter.

52. Notwithstanding any condition contained in the conditions of sale as printed in the Sale Catalogue, all persons who attend the Sale do so entirely at their own risk and neither the Selling Agent, nor the Promoter, nor their subsidiaries, officers or agents for themselves and for those whom they act, assume or accept any responsibility or liability of whatever nature for any injury or damage whatsoever which may occur to any person or property.

53. The Vendor accepts and acknowledges and agrees that where a dispute arises between the Vendor and the Purchaser in relation to the Lot, this must be resolved between them only. The Lot cannot be returned to the Selling Agent or its stables.

54. Except as disclosed in writing to the Selling Agent prior to the nomination of the Lot, the Vendor warrants that, in the absence of full and complete disclosure to the Selling Agent, the Lot has not undergone abdominal surgery of any type (with the exception of the surgical repair of a non-strangulating umbilical hernia), and has not undergone invasive joint surgery, surgery to repair a fracture, surgical intervention of the upper respiratory tract, or any other surgical procedure that may affect the suitability or racing future of the Lot. If prior to the Sale the warranty provided in the immediately preceding sentence is inaccurate, in whole, or, in part, the Vendor will immediately notify the Selling Agent in writing.

55. In accordance with the ARR the use of anabolic androgenic steroids in thoroughbred horses is banned. The ARR can be viewed at the RA website www.racingaustralia.horse and are subject to change by RA without notice. The Vendor irrevocably authorises the Selling Agent and its veterinary representatives to take a blood sample from the Lot, that is not catalogued in the Sale as breeding stock, following the sale of the Lot, to be analysed for the presence of anabolic androgenic steroids as per the conditions of sale as printed in the Sale Catalogue.

56. The Vendor warrants the Lot has not been administered with bisphosphonates. If prior to the Sale the warranty provided in the immediately preceding sentence is inaccurate, in whole, or, in part, the Vendor will immediately notify the Selling Agent in writing.

## PRIVACY AND CREDIT INFORMATION: THE ACT, THE NDB AND GDPR: AUTHORISATIONS AND AGREEMENTS

57. The Selling Agent and the Vendor acknowledge the existence of the Act, the NDB and the GDPR to protect the privacy of parties.

58. Further to the above, the Vendor irrevocably authorises the Selling Agent to obtain a report about the Vendor's consumer or credit worthiness from any credit reporting agency or commercial credit reporting business.

59. The Selling Agent reserves the right to contact third parties and the Vendor irrevocably authorises those third parties to provide all information of the type referred to above as requested by the Selling Agent.

60. The NDB came into effect on 22 February 2018 and the GDPR came into effect on 25 May 2018.

61. The purpose of the NDB was to set up a scheme whereby the Selling Agent and the Promoter, and their associated entities, must take certain measures where there is unauthorised access to, unauthorised disclosure of or loss of, personal sensitive information. The intention of the NDB is to ensure that parties holding personal data take all reasonably necessary internal security measures to ensure that the access, disclosure or loss does not result in serious harm to any of the individuals to whom the information relates.

62. The purpose of the GDPR was to protect the data privacy for all EU citizens. If a party processes data about individuals in the context of selling goods or services to EU citizens, the GDPR must be complied with.

63. The Selling Agent and the Promoter will do all things reasonably necessary to implement processes to protect unauthorised access to, unauthorised disclosure of, or loss of, personal information relating to the Vendor.

64. The Selling Agent and the Promoter will, and will procure their associated entities to do likewise, comply with the provisions of the NDB and notify as required by the NDB.

65. The Vendor accepts, acknowledges and agrees that the Selling Agent and the Promoter collect information that is personal to the Vendor which must be provided to the relevant authorities, such as RA and its members, and, in some cases, legal enforcement and government bodies and agencies and third parties that might have an interest, direct or otherwise, in the Lot. The Vendor (without releasing the Selling Agent and the Promoter, and their associated entities, from their obligations under the NDB and the GDPR) irrevocably authorises the Selling Agent and the Promoter, and their associated entities, to release personal information relating to the Vendor as anticipated by these Conditions of Nomination.

66. By attending the Sale and selling or purchasing the Lot pursuant to these Conditions of Nomination, the Vendor elects to "opt in", consent or subscribe to, the right of the Selling Agent and Promoter to hold and use personal sensitive information as regards the Vendor. The Vendor may, at any time, by notice in writing to the Selling Agent and / or the Promoter, elect to "opt out", withdraw consent or unsubscribe. The Selling Agent and the Promoter have updated their privacy and cookies policy because of the NDB and the GDPR. The Vendor is strongly advised to read the full privacy policy on the Selling Agent's and the Promoter's website home page.

## FURTHER LEGISLATION

67. The Selling Agent and Vendor agree that these Conditions of Nomination may need to change from time to time to meet legislative requirements coming into effect following the date hereof and the Vendor appoints the Selling Agent its attorney to effect any such changes without the Vendor's further consent (provided such changes do not adversely impact upon the commercial terms of these Conditions of Nomination) and the Vendor agrees to be bound by such changes.

# YOUR DEDICATED TEAM

## FOR FURTHER INFORMATION OR ASSISTANCE, PLEASE CONTACT:

**GOLD COAST – HEAD OFFICE** Magic Millions Sales Pty Limited, PO Box 5246, Gold Coast Mail Centre, QLD 9726
T 07 5504 1200 | F 07 5531 7082 | E bloodstock@magicmillions.com.au | www.magicmillions.com.au

**BARRY BOWDITCH** MANAGING DIRECTOR
14 YEARS OF SERVICE
T 07 5504 1216 | M 0402 280 538
E barry@magicmillions.com.au

**DAVID CHESTER** SALES DIRECTOR
31 YEARS OF SERVICE
T 07 5504 1209 | M 0410 683 466
E davidc@magicmillions.com.au

**STUART AIKMAN** CHIEF FINANCIAL OFFICER
8 YEARS OF SERVICE
T 07 5504 1203 | M 0401 222 645
E stuart@magicmillions.com.au

**CLINT DONOVAN** BLOODSTOCK MANAGER
11 YEARS OF SERVICE
T 07 5504 1227 | M 0421 944 985
E clintd@magicmillions.com.au

**JAMES DAWSON** BLOODSTOCK CONSULTANT
11 YEARS OF SERVICE
T 07 5504 1217 | M 0401 412 838
E jamesd@magicmillions.com.au

**CHRISTOPHER FARRELL**
BLOODSTOCK CONSULTANT
T 07 5504 1232 | M 0409 613 627
E christopher@magicmillions.com.au

**KYLIE ADAIR** BLOODSTOCK CONSULTANT
11 YEARS OF SERVICE
T 07 5504 1226 | M 0416 515 247
E kylie@magicmillions.com.au

**BEN CULHAM** BLOODSTOCK CONSULTANT
5 YEARS OF SERVICE
T 07 5504 1215 | M 0419 646 860
E benc@magicmillions.com.au

**NICKY WONG** ASIA CLIENT ADVISOR
2 YEARS OF SERVICE
T 07 5504 1204 | M 0428 866 905
E nicky@magicmillions.com.au

**MICHELLE PAGE** SALES ENTRY COORDINATOR
10 YEARS OF SERVICE
T 07 5504 1214
E michellep@magicmillions.com.au

**GEORGIA EVERINGHAM**
BLOODSTOCK ADMINISTRATION
T 07 5504 1224 | M 0431 173 271
E georgia@magicmillions.com.au

**VICTORIA & TASMANIA**
**TIM BROWN** BLOODSTOCK CONSULTANT
11 YEARS OF SERVICE
T 0401 307 918 E timb@magicmillions.com.au

**NEW ZEALAND**
**STEVE DAVIS** BLOODSTOCK CONSULTANT
22 YEARS OF SERVICE
T 0274 727 347 E steved@magicmillions.com.au

**ADELAIDE – BRANCH OFFICE**
Magic Millions Sales Pty Limited, PO Box 100, Park Holme SA 5043 | T 08 8297 8055 | F 08 8297 2136 | E adelaide@magicmillions.com.au

**ADRIAN HANCOCK** BLOODSTOCK CONSULTANT
20 YEARS OF SERVICE
T 08 8297 8055 | M 0417 519 307
E adrian@magicmillions.com.au

**WENDY CUBITT** OFFICE MANAGER
20 YEARS OF SERVICE
T 08 8297 8055 | M 0410 683 465
E wendyc@magicmillions.com.au

**PERTH – BRANCH OFFICE**
Magic Millions Sales Pty Limited, PO Box 448, Belmont WA 6984 | T 08 9477 2455 | F 08 9477 2488 | E perth@magicmillions.com.au

**DAVID HOUSTON** MANAGER WA
7 YEARS OF SERVICE
T 08 9477 2455 | M 0408 609 994
E davidh@magicmillions.com.au

**CHARLOTTE GEOGHEGAN** OFFICE ADMINISTRATOR
1 YEAR OF SERVICE
T 08 9477 2455 | M 0417 846 981
E charlotte@magicmillions.com.au

**NEW SOUTH WALES**
Magic Millions Sales Pty Limited, Box 250, 122 Lang Road, Entertainment Quarter, Moore Park, NSW 2021

**DANE ROBINSON**
NSW BLOODSTOCK CONSULTANT
M 0488 005 572
E dane@magicmillions.com.au

**ROWENA SMITH**
NSW REPRESENTATIVE & CLIENT LIAISON
4 YEARS OF SERVICE
M 0438 431 132 E rowena@magicmillions.com.au

www.magicmillions.com.au