

## TERMS AND CONDITIONS

### 1. Definitions and interpretation

#### 1.1. Definitions

- 1.1.1. **Bitch** means the female greyhound which the Goods are to be surgically implanted, whose details are set out in the Order.
- 1.1.2. **Buyer** means the purchaser of the Goods, whose details are set out in the Order Form.
- 1.1.3. **Delivery** means the date which the Seller lodges the Transfer Application with Greyhounds Australia or such other relevant authority as required.
- 1.1.4. **Goods** means the frozen semen breeding unit(s) specified in the Order Form.
- 1.1.5. **Greyhounds Australasia** means Greyhounds Australasia Limited (A.C.N. 106 879 903) of Sandown Greyhound Racing Complex, Lightwood Road, Springvale, Victoria, 3171.
- 1.1.6. **Order Confirmation** means the seller's confirmation of the Buyer's order under clause 5.2.
- 1.1.7. **Order Form** means the Semen Request Form as approved from time to time by the Seller.
- 1.1.8. **Payment Due Date** means seven (7) days after Delivery.
- 1.1.9. **Purchase Price** means the amounts payable by the Buyer for the Goods as set out in the Order Confirmation.
- 1.1.10. **Seller** means Steven White (Triple Group One)
- 1.1.11. **Stud Dog** means the stud dog which the Goods have been extracted, whose details are set out the Order Form.
- 1.1.12. **Transfer Application** means the Application to Transfer the Ownership of a Frozen Semen Breeding Unit as approved from time to time by Greyhounds Australasia.

### 2. Interpretation

- 2.1. Nothing in these conditions exclude, restrict or modify or have the effect of excluding, restricting or modifying any condition, warranty, guarantee, right or remedy implied by law (including the Competition and Consumer Act 2010 (Cth)) and which by law cannot be excluded, restricted or modified.

### 3. General

- 3.1. These conditions (which will only be waived in writing signed by the Seller) will prevail over all conditions of the Buyer's order, to the extent of any inconsistency.

#### **4. Terms of sale**

- 4.1. The Goods and all other products sold by Seller are sold on these terms and conditions.

#### **5. Buyer's Order**

- 5.1. Every order for the Goods must be submitted in writing on the Seller's Order Form (unless otherwise agreed). Placement of an order by the Buyer signifies acceptance by the Buyer of these terms and conditions.
- 5.2. As soon as reasonably practicable after receiving the order from the Buyer, the Seller will issue an Order Confirmation to the Buyer containing the relevant particulars of the Buyer's order, including (but not limited to) the description of the Goods, quantity, the facility where the Goods are to be stored and the Purchase Price.
- 5.3. The Purchase Price is calculated at the date the Seller issues the Order Confirmation. For the avoidance of doubt, the price payable for the Goods is subject to change until the Order Confirmation is issued.
- 5.4. The Seller reserves the right to withdraw its Order Confirmation at any time prior to receiving payment of the Purchase Price.

#### **6. Additional Charges**

- 6.1. The Buyer is responsible for all import/customs duties, taxes or other charges incurred as a result of shipping.

#### **7. Payment**

- 7.1. Unless otherwise agreed by the Seller, the Purchase Price is payable by the Buyer prior to the Goods being dispatched to, or as directed by, the Buyer.
- 7.2. Unless otherwise stated, all amounts payable by the Buyer are exclusive of Goods and Services Tax (**GST**). The recipient (the Buyer) of a taxable supply made under or in respect of the Tax Invoice must pay to the supplier (the Seller), at the time payment for the supply is due, the GST payable in respect of the supply.
- 7.3. Upon payment of the Purchase Price being received in full as cleared funds the Seller will as soon as reasonably practicable thereafter:
  - 7.3.1. dispatch the Goods to, or as directed by, the Buyer;
  - 7.3.2. lodge the Transfer Application with Greyhounds Australasia or such other relevant authority as required; and
  - 7.3.3. issue a Tax Invoice/Receipt to the Buyer.
- 7.4. In the event that the Goods are dispatched to, or as directed by, the Buyer prior to payment of the Purchase Price, the Buyer must pay the Purchase Price to the Seller by the Payment Due Date.
- 7.5. The Buyer must pay interest on any outstanding amount not paid by Payment Due Date. Interest will be calculated at the rate of 2% per annum more than the rate from time to time fixed by the *Penalty Interest Rates Act 1983(Vic)*. Interest will accrue daily from the Payment Due Date until the outstanding amount is paid in full.

7.6. The obligations of this clause 7 shall survive termination of this agreement.

## **8. Completion of Documents**

8.1. The Buyer will do all things and sign all documents reasonably required to transfer ownership of the Goods from the Seller to the buyer, including but not limited to, signing and returning the Transfer Application to the Seller as soon as reasonably practicably after being requested by the Seller to do so.

## **9. Delivery**

9.1. The delivery times made known to the Buyer are estimates only and the Seller is not liable for late delivery or non-delivery.

9.2. The Seller will not be liable for any loss, damage or delay occasioned to the Buyer or its customers arising from late or non-delivery of the Goods.

## **10. Loss or damage in transit**

10.1. The Seller is not responsible to the Buyer or any person claiming through the Buyer for any loss or damage to Goods in transit caused by any event of any kind or by any person (whether or not the Seller is legally responsible for the actions of that person).

## **11. Guarantee**

11.1. Subject to clause 11.2, if the Bitch fails to conceive, the seller will either, in its absolute discretion:

11.1.1. refund the Purchase Price to the Buyer:

11.1.1.1. less 10% if the Bitch is under the age of eight (8) years; or

11.1.1.2. less 50% if the Bitch is eight (8) years of age or more; or alternatively

11.1.2. replace the Goods with:

11.1.2.1. a frozen semen breeding unit(s) from the same Stud Dog provided that the said Stud Dog is alive and fertile and the cost of such Goods has not increased since Delivery. If the cost of such Goods has increased since Delivery then any such replacement will be subject to the Buyer paying the difference in value to the Seller; or

11.1.2.2. a frozen semen breeding unit(s) from another stud dog of equal value to the Goods which is available to the Seller and to be chosen by the Buyer in the event the Stud Dog is not alive and/or fertile or the Buyer does not agree to pay the difference in value;

provided however that the Buyer must pay a replacement fee of \$200.00 to the Seller.

11.2. The Seller's obligations set out in clause 11.1 shall only apply to a single replacement or refund and are only binding on the Seller where:

11.2.1. the Goods have been surgically implanted in the Bitch:

11.2.1.1. within twelve (12) months of the date of delivery of the Goods;  
and

11.2.1.2. by a Veterinary Surgeon recommended by the Seller from time to time. Details of the Seller's recommended Veterinary Surgeons' will be provided to the Buyer prior to Delivery and are available at <http://meticulouslodge.com/>; and

11.2.2. evidence (i.e. in the form of written confirmation from the Veterinary Surgeon) is provided to the reasonable satisfaction of the Seller demonstrating that:

11.2.2.1. the Goods have been surgically implanted in accordance with clause 11.2.1; and

11.2.2.2. the Bitch failed to conceive.

11.3. For the avoidance of doubt, the obligations set out in clause 11.1 will not apply and/or be binding on the Seller where the Goods have been inseminated in the Bitch by:

11.3.1. Vaginal Insemination; or

11.3.2. Trans Cervical Implant.

11.4. Except as provided in these conditions, all express and implied warranties, guarantees and conditions under statute or general law are expressly excluded.

## **12. Limitation of Liability**

12.1 The Seller is not liable for physical or financial injury, loss or damage or for consequential loss or damage of any kind arising out of the supply or use of the Goods or arising out of the Seller's negligence or in any way.

12.2 The Buyer accepts that all risks associated with the quality of the Goods will not be borne by the Seller.

12.3 The Seller will not be liable for any claim relating to or arising from any alleged fault or defect in the Goods, whether caused or contributed to by the Seller, the Buyer or any third party or otherwise.

12.4 In the event of any breach of these Terms and Conditions by the Seller, the remedies of the Buyer shall be limited to damages which under no circumstances shall exceed the Purchase Price of the Goods. The Seller shall be under no liability whatever to the Buyer for any indirect loss and/or expense (including loss of profit) suffered by the Buyer.

12.5 The Seller shall not be liable for any default of these Terms and Conditions due to any event of force majeure including but not limited to war, terrorism, strike, lock-out, industrial action, fire, flood, drought, storm or other event beyond its reasonable control.

## **13. Consumer guarantees**

13.1 The Seller's liability for a breach of a condition or warranty implied by Part 3-2 Division 1 of the Australian Consumer Law is limited to:

13.1.1 in the case of Goods, any one or more of:

- 13.1.1.1 the replacement of the Goods or the supply of equivalent goods;
- 13.1.1.2 the repair of the Goods;
- 13.1.1.3 the payment of the cost of replacing the Goods or of acquiring equivalent goods; and
- 13.1.1.4 the payment of the cost of having the Goods repaired; or
- 13.1.2 in the case of services:
  - 13.1.2.1 the supplying of the services again; or
  - 13.1.2.2 the payment of the cost of having the services supplied again.

#### **14 Indemnification of suppliers by manufacturers**

- 14.1 The Seller's liability under section 274 of the Australian Consumer Law is expressly limited to a liability to pay to the purchaser an amount equal to:
  - 14.1.1 the cost of replacing the Goods;
  - 14.1.2 the cost of obtaining equivalent goods; or
  - 14.1.3 the cost of having the Goods repaired,whichever is the lowest amount.

#### **15 Buyer's property**

- 15.1 Any property of the Buyer under the Seller's possession, custody or control is completely at the Buyer's risk as regards loss or damage caused to the property or by it.

#### **16 Returned Goods**

- 16.1 Except for any provisions to the contrary contained in this agreement, the Seller is not under any duty to accept Goods returned by the Buyer. The Seller will do so only on terms to be agreed in writing in each individual case.
- 16.2 If the Seller agrees to accept returned Goods from the Buyer under clause 16.1, the Buyer must return the Goods to the Seller's principal place of business.

#### **17 Goods sold**

- 17.1 All Goods to be supplied by the Seller to the Buyer are as described on the Order Confirmation issued by the Seller under clause 5.2 and the description on such Order Confirmation prevails over all other descriptions of the Goods including any specification or enquiry of the Buyer.

#### **18 Termination**

- 18.1 This agreement will automatically terminate if the Buyer on-sells the Goods in the absence of the Seller's prior written consent, such consent may be withheld at the Seller's sole discretion.

**19 Place of contract**

19.1 This agreement shall be governed by and construed in accordance with laws in the State of Victoria. The parties submit to the non-exclusive jurisdiction of the courts and tribunals of the governing law jurisdiction.