

TERMS AND CONDITIONS

In these terms and conditions:

- Equine Vet Services Pty Ltd ACN 659 435 006 is referred to as **we, us** or **our**.
- The person who makes a Booking or otherwise requests us to deliver the Services is referred to as **you** or **your**.

1. DEFINITIONS

Booking means a request for us to deliver the Services, by way of written or verbal appointment.

Booking Date means the date that the Services are to be delivered by us, as agreed between us and you.

Booking Location means the place nominated by you in the Booking, where the Services are to be delivered by us.

CCA means the *Competition and Consumer Act 2010* (Cth) as amended, re enacted or replaced, and includes any subordinate legislation.

Consequential Loss means loss of expected savings, loss of use, loss of opportunity, loss of profit, loss of revenue, increased financing costs, loss arising from delay, or any consequential, special or indirect loss or damage, whether or not the possibility or potential extent of the loss or damage was known or foreseeable, and whether arising from a claim under indemnity, contract, tort (including negligence), statute or otherwise.

Contract means contract for the delivery of the Services by us to you, which comprises these terms and conditions.

Claims means all claims, investigations, demands, actions, proceedings, suits, causes of action, damages, debts, costs, verdicts and judgments whatsoever; whether at law or in equity or under any statute including but not limited to all claims arising from or out of incident, matter, damage, disease, injury or death to the equine animal in connection with the Services.

Financing Change Statement has the meanings given to that term by the PPSA.

Financing Statement has the meanings given to that term by the PPSA.

GST has the meaning given by the GST Law.

GST Law has the meaning given to "GST law" in the A New Tax System (Goods and Services Tax) Act 1999 (Cth).

Immediately Available Funds means the electronic transfer of cleared funds, into an account nominated by us.

Loss includes any loss, liability, expense, cost or damage of any kind and includes Consequential Loss and a fine or penalty imposed by a statutory or other authority.

Monies Owning means any Service Fees, costs, interest and duties due to us by you from time to time.

PPSA means the *Personal Property Securities Act 2009* (Cth) and where applicable includes all regulations made pursuant to it.

PPSA Personal Property means:

- all present and after-acquired property in which you can be a grantor of a Security Interest including

property in which you have, or may in the future have, rights or the power to transfer rights;

- proceeds of the sale of any PPSA Personal Property; and
- PPSA retention of title property (as that term is defined in the Corporations Act).

PPSR means the Personal Property Securities Register established under the PPSA.

Security Agreement has the meaning given to that term in the PPSA.

Security Interest has the meaning given to that term in the PPSA.

Service Fee means the fees payable by you for the delivery of the Services as agreed between us and you.

Services means any form of veterinary services including treatment, surgery, diagnostic aid, laboratory test, advice, or any other veterinary involvement in the treatment of an equine animal.

Tax Invoice has an invoice that complies with the requirements set out in section 29-70 of GST Law.

2. FORMATION OF CONTRACT

- A Contract is entered into between the us and you when we accept, whether verbally, in writing or via conduct, a Booking which you place for the delivery of the Services.

- These terms and conditions are incorporated into each Contract between us and you.

- You agree that:

- all quotations made by us and all Bookings made by you are accepted on the terms of this this document; and

- no further terms and conditions will be deemed to form part of a Contract between us and you in respect of the delivery of the Services, unless those further terms and conditions are agreed to between us and you in writing as forming part of this document.

3. DELIVERY OF SERVICES

- In consideration for the payment of the Service Fees, we agree to deliver the Services to you:

- on the Booking Date; and

- at the Booking Location.

- We agree to deliver the Services in accordance with:

- these terms and conditions and the Booking;

- best industry practice and otherwise in a professional, competent and timely manner; and

- all laws relating to or in connection with the delivery of the Services.

- Where you comply with your obligations under these terms and conditions, we will endeavour to provide the

Services promptly. However, we shall not be liable for any Loss whatsoever suffered by you due to failure by us to:

- (i) deliver, or complete the delivery of the Services on the Booking Date; or
 - (ii) deliver the Services where the failure to deliver is due to circumstances beyond our control.
- (d) You acknowledge and agree that the Services does not include any emergency services for equine animals.

4. DEPOSIT

- (a) At our sole discretion, you may be required to pay a deposit to us prior to the delivery of the Services, or as a condition to us accepting a Booking made by you.
- (b) Any deposit payable by you may be for some or all of the relevant Service Fees.
- (c) If a deposit is requested by us, you acknowledge that there is no obligation for us to deliver the Services until the deposit is paid and received in full.
- (d) Any deposit paid by you will be refunded to you if the relevant Booking is cancelled by us, or we fail to deliver the Services on the relevant Booking Date. If the Booking is cancelled by you, you acknowledge and agree that the deposit is to be retained by us.

5. SERVICE FEES

- (a) Unless otherwise agreed in writing, all amounts provided in these terms and conditions are stated in Australian dollars.
- (b) You must pay the Service Fees, or part of the Service Fees (as the context requires) in Immediately Available Funds and on any date specified in any Tax Invoice, unless otherwise agreed in writing by the parties.
- (c) We reserve the right to charge you a fee for, or seek reimbursement for the fee charged to us, on any payment by you that attracts any transaction fee for us.
- (d) All payments of amounts owed by you to us must be made free of any set-off or counterclaim and without deduction or withholding whatsoever.
- (e) We may, by giving notice to you, increase the Service Fees for Services to be delivered to reflect any increase in the cost to us (including, without limitation, obstructed access to the nominated address, fluctuations in petrol costs, or increases in taxes, duties, insurance premiums, or labour).
- (f) Where an amount that you owe us is not paid when due, then we, at our sole discretion, may charge interest on that overdue amount. Interest shall accrue daily on the overdue amount from the date when payment becomes due, until the date of payment, at a rate of #5% per annum (and such interest will be capitalised and added to the amount outstanding daily at such a rate) after as well as before any judgment.

The payment of any interest under this clause must be paid by you immediately on demand by us.

- (g) In the event that your payment is dishonoured for any reason, you shall be liable for any dishonour fees incurred by us.

6. QUOTES

- (a) Before making a Booking, you may request us to provide a quote for the delivery of the proposed Services (and to otherwise estimate the amount of Service Fees that would be payable by you).
- (b) Any quote provided by us would be valid for 30 days.
- (c) You acknowledge and agree that:
 - (i) any quote provided by us in accordance with this clause 6 is an estimate only (based on our understanding of the circumstances, and our expectation of the amount of work involved); and
 - (ii) we are not bound by any quotes provided to you.

7. GST

All amounts payable under these terms and conditions or in connection with the delivery of the Services are exclusive of GST.

8. CANCELLATIONS

- (a) Should you need to cancel or reschedule a Booking, you must give us at least 24 hours' notice to the commencement time for the Booking.
- (b) Should you cancel or reschedule a Booking:
 - (i) within 24 hours of the scheduled Booking, you will be liable (at our discretion) to pay us the lower of;
 - (A) 50% of the Service Fee; or
 - (B) \$250.
 - (ii) within 12 hours, you will be liable (at our discretion) to pay the full Service Fee that would have otherwise been payable for the Booking.
- (c) Any cancellation fee payable by you under clause 8(b) may be discounted or waived where we believe the cancellation to be for a reasonable reason.
- (d) We reserve the right to cancel a Booking at any time and without providing you with a reason.
- (e) In the event that we cannot perform the Services, we will:
 - (i) use its best endeavours to provide you with notice as soon as possible;
 - (ii) refund any deposit that you have previously paid to us in accordance with clause 4; and
 - (iii) if possible, reschedule the Services to be performed at a time and place that is agreeable to you.

9. YOUR OBLIGATIONS

- (a) When you make a Booking for us to perform the Services, you will:
 - (i) provide the details of the Booking Location; and
 - (ii) ensure that there we (and our representatives) have full, free and safe access to access the Booking Location so that we are able to adequately deliver the Services.
- (b) You agree to be present and available at the Booking Location for the duration of the Booking (and otherwise during the delivery of the Services).
- (c) To assist with our delivery of the Services, you agree to comply with all reasonable directions provided by us.

10. SECURITY

- (a) You acknowledge and agree that these terms and conditions constitute a Security Agreement for the purposes of the PPSA.
- (b) you acknowledge and agree that these terms and conditions create:
 - (i) a Security Interest in all PPSA Personal Property; and
 - (ii) a fixed charge over all Other Property,to secure payment of all Monies Owing by you to us from time to time, and the performance of your obligations under these terms and conditions.
- (c) You undertake to promptly sign any further documents and/or provide any further information (such information to be complete, accurate and up-to-date in all respects) which we may reasonably require to promptly register:
 - (i) a Financing Statement or Financing Change Statement in relation to a Security Interest on the PPSR;
 - (ii) any document on any register reasonably necessary to secure our interest under these terms and conditions; and
 - (iii) any other document required to be registered under the PPSA.
- (d) You irrevocably appoint us be your attorney to do such acts and execute such documents as you could personally do or execute (including the appointment of a substitute attorney) which in our opinion is necessary or expedient to give effect to any right, power or remedy conferred on us by these terms and conditions or the PPSA and to give effect to the matters contemplated by these terms and conditions.
- (e) The provisions of this clause 10 will survive termination of this document, for whatever reason.

11. LIMITATION OF LIABILITY

- (a) To the maximum extent permitted by law, our total liability arising out of or in connection with our performance of our obligations under these terms and

conditions or arising out of or in connection with the delivery of the Services is limited as follows:

- (i) we shall have no liability to you for any Consequential Loss; and
 - (ii) your total aggregate liability for Loss, however arising, shall not exceed the GST exclusive aggregate price paid by you to us for the specific Services that gave rise to the Loss in question.
- (b) To the maximum extent permitted by law, you acknowledge and agree that:
 - (i) we have made no warranty or representations to you regarding the provision, delivery, quality, fitness for purpose or otherwise in respect of the Services; and
 - (ii) all statutory and common law warranties or representations regarding the provision, delivery, quality, fitness for purpose or otherwise in respect of the Services, including those made under the CCA, are excluded.
 - (c) You agree to indemnify us (and keep us indemnified) from and against all losses, claims, proceedings, damages, costs and expenses in respect of or arising directly or indirectly from:
 - (i) the delivery of the Services;
 - (ii) any advice given by us to you; and
 - (iii) any breach by you of a Contract.

12. DISCLAIMER

- (a) We disclaim any and all responsibility or liability for any loss, damage, injury or other claim whatsoever for any outcome arising from the delivery of the Services at the Booking Location.
- (b) You disclaim any right to rescind, or cancel these terms and conditions or to sue for damages to claim restitution arising out of any misrepresentation made to you by us, third party service providers or agents.
- (c) You agree to engage the Services at your own risk. We will not, under any circumstances, be liable for any direct or indirect injury, loss or damage arising out of the Services delivered by us.

13. APPOINTMENT OF SUBCONTRACTORS

If we consider it appropriate to do so, we may engage other consultants or subcontractors to assist us in delivering the Services.

14. RECORDS

All records including, reports, clinical notes, radiographs and any images or laboratory results resulting from examinations or procedures performed by us, will remain our property. Copies of our records with a summary of the equine animal's medical history will be given to another veterinary surgeon upon receipt of the written authority of you.

15. GENERAL

- (a) If any provision of this document shall be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.
- (b) This document shall be governed by the laws of Queensland and are subject to the jurisdiction of the courts of Queensland.
- (c) You shall not be entitled to set off against, or deduct from the Service Fees, any sums owed or claimed to be owed to you by us nor to withhold payment of any Tax Invoice because part of that invoice is in dispute.
- (d) We reserve the right to review and amend these terms and conditions from time to time and must give notice to you of any changes.
- (e) Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, pandemic, epidemic, fire, flood, storm or other event beyond the reasonable control of either party.
- (f) The failure by us to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect our right to subsequently enforce that provision.