

CONDITIONS OF SALE

The Conditions of Sale following apply to all transactions entered into at the 2018 Australasian Classic and 2018 New Zealand Premier Yearling Sales. The Conditions of Sale are binding notwithstanding that they may not be read out. All persons buying and selling yearlings at the sale are deemed to have knowledge of these Conditions and be bound by them. In these conditions, "PGW" means PGG Wrightson Limited.

AUCTION PROCESS

- 1. GST and bidding:** All bids will be GST exclusive and, subject to clause 21, the bidder will, if successful, pay GST at the then current rate in addition to the purchase price of any yearling.
- 2. Bidding increments:** Bidding will advance in increments nominated by PGW.
- 3. Reserve:** If the Vendor wishes to set a reserve for a yearling, then the Vendor must advise PGW in writing of their reserve price before the auction for the yearling commences, by signing a reserve card in the form prescribed by PGW.
- 4. Vendor bids:** PGW may bid on any yearling subject to a reserve as agent of the Vendor, up to that reserve. The Vendor will neither bid nor allow any agent or other person to bid on his, her or its behalf for their yearling.
- 5. Sale to highest bidder:** Yearling/s will be sold to the highest bidder at or above any reserve set by or on behalf of the Vendor, subject to PGW's right to reject any bid. In the absence of a reserve, yearlings will be sold to the highest bidder.
- 6. Option to buy passed in yearling at reserve:** The highest bidder (not including the Vendor or any agent of the Vendor) has the first option to buy a passed in yearling at the reserve price until the yearling leaves the sales ring.
- 7. Dispute:** Should any dispute arise as to the sale price or the identity of the successful bidder, PGW may cancel any sale of the yearling and resell the yearling, or determine the dispute in its sole discretion. PGW's decision will be final.
- 8. Vendor's and purchaser's details may be provided:** The Vendor consents to their name and contact details on the Nomination Form for any yearling sold by it being provided to the purchaser of that yearling. The Purchaser of a yearling consents to their name and contact details being provided to the Vendor of that yearling.
- 9. No agency:** Each bidder is deemed (as between the Vendor, PGW and such bidder) to bid as a principal notwithstanding any subsequent disclosure of agency and to be and remain responsible for the payment of the purchase price for any yearling in respect of which he or she is the highest bidder, unless that bidder has been appointed to bid as the representative of a registered purchaser in a registration form accepted by PGW.

PURCHASE PRICE, PAYMENT AND REPOSSESSION OF YEARLING

- 10. Payment of purchase price:** All payments must be made in New Zealand dollars and in full, without any set-off, counter claim or deduction.
- 11. Payment to be made in cash at sale:** If no arrangement has been made with PGW prior to the sale (see clause 13), a Purchaser must make payment for any yearlings purchased, plus any payments in respect of the New Zealand Yearling Sales Series, in cash or by bank cheque at the sales office no longer than 60 minutes after the fall of the hammer in respect of each such yearling.
- 12. Failure to pay as required by clause 11:** If the full purchase price plus any New Zealand Yearling Sales Series payment is not paid as required by clause 11 (time being of the essence):
 - PGW may, in its sole discretion, without any notice whatsoever to the Purchaser, at any time cancel the sale and, at its discretion, return the yearling to the Vendor or re-offer the yearling for sale either privately or by auction at the Purchaser's risk and expense in all things. If the Vendor suffers a loss on any such resale, the amount of that loss will be a debt due by the Purchaser to the Vendor on demand; or
 - PGW or the Vendor may sue the Purchaser for the purchase price, and any monies which the Purchaser has paid to PGW on account of the purchase will be absolutely forfeited. The Purchaser will be liable for all costs incurred by PGW in holding the yearling after the expiry of 60 minutes following the fall of the hammer.
- 13. Payment terms:** PGW may make payment terms available for yearlings purchased at the sale. Purchasers wanting payment terms must apply to PGW at least 5 (five) days prior to sale day. PGW may approve or decline payment terms in its sole discretion. Payment terms are made by PGW as principal and not as agent of the Vendor. The payment terms will not form part of these Conditions of Sale and will be recorded in a separate agreement between PGW and the Purchaser. The vendor acknowledges that it retains title in the yearling until the Purchaser has paid PGW the purchase price for yearling and any other amounts payable under these Conditions.
- 14. Interest payable on overdue amounts:** Interest will accrue on amounts not paid as required by these Conditions from the date the payment was due on a daily basis on the total amount outstanding at the rate of 21.5 percent per annum to the date of payment (whether before or after judgment).
- 15. Collection and other costs:** In addition to interest on overdue amounts, the Purchaser will be liable for all collection costs and solicitor's costs incurred in recovering the overdue amount.
- 16. No representation or warranty about ability to pay:** PGW gives no representation or warranty that any Purchaser will complete their purchase in accordance with these Conditions.
- 17. Repossession of yearling:** PGW may repossess the yearling at any time if the Purchaser has not paid the purchase price for the yearling as required by these Conditions or any other payment terms with PGW. For that purpose the Purchaser hereby irrevocably gives PGW leave and licence by its officers and agents without the necessity of giving any notice to enter into and upon and if necessary to break into any building or land occupied by the Purchaser where the yearling may be or may be suspected to be within or outside of New

Zealand, as the agent of the Purchaser and to search for, remove and take possession of the yearling without being liable in any way to the Purchaser or to anyone claiming under it for so doing. The Purchaser will be liable for all costs and expenses incurred in repossessing or attempting to repossess the yearling. PGW may at its discretion offer the yearling for sale either privately or by auction following repossession and any surplus shall belong to the Vendor and any loss incurred in respect of such resale will be recoverable by PGW from the Purchaser as a debt due on demand.

- 18. Multiple purchasers:** Where the purchaser comprises more than one person or entity, their respective liability to pay the purchase price and all other amounts under these Conditions will be joint and several.

GOODS AND SERVICES TAX

- 19. Sales to be plus GST:** A Vendor who is not GST registered in New Zealand agrees that his, her or its yearlings will be offered for sale plus GST, as per clause 60(5) of the Goods and Services Tax Act 1985.
- 20. Payment of GST to vendor:** GST collected by PGW in respect of a sale will be paid to the Vendor unless the Vendor is not registered for GST, in which case PGW will pay the GST direct to Inland Revenue.
- 21. GST:** A sale may incur GST at the rate of zero per cent where the yearling is entered for export and exported from New Zealand within 28 days of sale by the Vendor, PGW or their agent in accordance with the requirements of the Goods and Services Tax Act 1985. If for any reason the requirements for zero rating of GST have not been satisfied, the Purchaser will pay GST at the then current rate in addition to the purchase price of the yearling, on demand being made by PGW. If the GST is not paid by the due date, then the Purchaser will pay interest at the rate specified in clause 14 from the due date for payment and the amounts specified in clause 15 in respect of the recovery of the GST, plus any other penalties charged by Inland Revenue.
- 22. GST and other taxes on import:** The Purchaser is responsible for all GST and other taxes payable on the import of the yearling into any other country.

RISK, DELIVERY, POSSESSION, TITLE AND ENGAGEMENTS

- 23. Vendor's risk:** Each yearling will remain at the Vendor's risk (whether in relation to damage, injury, disease, accident, escape, loss or otherwise) from the time of arrival at the sale venue until the fall of the hammer for the yearling. The Vendor acknowledges that risk in the yearling may revert to it in the circumstances set out in clauses 25 and 36-39 of these Conditions.
- 24. Purchaser's risk:** Risk in the yearling (whether in relation to damage, injury, disease, accident, escape, loss or otherwise) will pass to the Purchaser (irrespective of whether delivery has occurred or possession has passed) from the fall of the hammer.
- 25. Risk where sale cancelled:** Where PGW cancels a sale pursuant to clause 12, risk in the yearling will revert to the Vendor immediately on cancellation of the sale by PGW.
- 26. Delivery following payment:** Where payment is to be made pursuant to clause 11, delivery to and possession of the yearling by the purchaser will not occur or pass until the Purchaser has paid the purchase price for the yearling and of all other amounts payable under these Conditions in full in cleared funds. In all other cases, delivery to and possession of the yearling by the Purchaser will occur or pass on the fall of the hammer.
- 27. Change of Ownership forms:** The Vendors will provide PGW with signed Change of Ownership forms, completed on the reverse side, showing details of colour, markings and brands, prior to sale day. The Vendor will not deliver signed Change of Ownership forms to anyone other than PGW, including the Purchaser. PGW will retain the Change of Ownership forms unregistered until the Purchaser has paid the purchase price plus any other amounts payable by the Purchaser under these Conditions. The Purchaser will sign the Change of Ownership forms and register them immediately on receipt from PGW.
- 28. Title to pass following payment:** In all cases (notwithstanding that delivery has occurred and possession has passed to the Purchaser) title remains with the Vendor and will not pass to the Purchaser until the Purchaser has paid PGW the purchase price for the yearling (notwithstanding that PGW may have paid the Vendor) and any other amounts payable by the Purchaser pursuant to these Conditions (including transport, interest and collection and other costs). The Vendor acknowledges that it retains title to the yearling until the Purchaser pays the purchase price and all other costs as described in this clause.
- 29. Engagements:** All yearlings are sold with their engagements and the Vendor will sign the transfer prior to the sale day. The Vendor will not deliver signed transfer of engagement forms to anyone other than PGW, including the Purchaser. PGW will retain the transfer of engagement forms unregistered until the Purchaser has paid the purchase price plus any other amounts payable by the Purchaser under these Conditions. The Purchaser will sign the transfer of engagement forms and register them immediately on receipt from PGW.

OVERSEAS PURCHASERS

- 30. Export:** Where a yearling is to be exported following the sale, PGW will attend to all export arrangements for the yearling as agent for the Vendor. The Purchaser is responsible for all costs associated with the export, which will be due and payable at the same time as the purchase price for the yearling. PGW may withhold delivery of the yearling until the Purchaser has paid for the yearling and all other amounts associated with the purchase and export of the yearling, as described in these Conditions.
- 31. Rebate:** The Vendor and Purchaser each acknowledge that PGW may receive a rebate from freight providers used by PGW to transport the yearling.

WARRANTIES AND GUARANTEES

- 32. Yearling purchased as is:** Except as otherwise expressly provided in clauses 36-39, the Purchaser accepts the yearling as is at the fall of the hammer. No guarantee, representation or warranty of any kind is made or given by PGW or the Vendor as to the soundness, condition or quality of any yearling or of its fitness for the purpose of training, racing or breeding or any other purpose.

- 33. Purchaser's acknowledgement:** The Purchaser acknowledges that:
- it has purchased the yearling solely in reliance on its own inquiries and inspection that it has not relied on any representations made by the Vendor or PGW in purchasing the yearling; and
 - it is its responsibility to arrange for any veterinary inspection required by it; and
 - the yearling is both supplied and acquired in trade;
 - the Consumer Guarantees Act 1993 does not apply and this clause contracts out of the provisions of the Consumer Guarantees Act;
 - it, the Vendor and PGW agree to contract out of sections 9, 12A, 13, and 14(1) of the Fair Trading Act;
 - this clause is fair and reasonable and that it had the opportunity if it chose to negotiate these Conditions and receive advice from or be represented by a lawyer in relation to these Conditions; and
 - no compensation will be payable by either the Vendor or PGW for any faults, imperfections or other defects, or any failure on the part of the yearling to comply with the Purchaser's expectations.

CONDITION OF LOT

- 34. Pre-sale Veterinarian Examination:** Prior to the auction of the yearling, the Vendor will permit the yearling to be examined by a veterinarian for soundness. All examinations will be completed in a stable and not in the sale ring or in public view. Prospective purchasers are responsible for the cost of examinations completed for them. Prospective purchasers are not required to disclose the results of the examination to anyone, including the Vendor.
- 35. Disorders to be notified:** The Vendor will disclose to PGW prior to the sale if:
- any yearling has any diagnosed disease or disorder, or if the Vendor believes that any yearling may have any disease or disorder; or
 - any colt is a Cryptorchid (rig); or
 - any yearling is addicted to windsucking (aerophagia) or is a wobbler; or
 - any yearling has:
 - laryngeal hemiplegia (Grossly deficient abductor function of one or both Arytenoid cartilages, Grades 4 and 5 Lane Bain Fallon Proceedings 1993);
 - rostral displacement of the palatopharyngeal arch;
 - persistent Epiglottic entrapment;
 - persistent dorsal displacement of the soft palate;
 - arytenoid chondritis or chondroma; or
 - subepiglottic cyst(s);
 - cleft palate;
 - any other airway condition or lesion altering airway function or causing significant airway obstruction; or
 - any obstruction that in the opinion of a veterinarian is likely to result in exercise intolerance,and that fact will be announced before the auction for that yearling. The Purchaser will buy the yearling on that basis.
- 36. Cancellation of sale:** If the Purchaser provides PGW with evidence (at the Purchaser's expense and to PGW's satisfaction in all respects) that:
- any yearling it purchased had any diagnosed disease or disorder at the fall of the hammer, or that the Vendor believed that that yearling may have any disease or disorder at the fall of the hammer which it does in fact have; or
 - any colt it purchased is a Cryptorchid (rig); or
 - any yearling it purchased is addicted to windsucking (aerophagia); or
 - any yearling it purchased is suffering from wobblers disease; or
 - any yearling has:
 - laryngeal hemiplegia (Grossly deficient abductor function of one or both Arytenoid cartilages, Grades 4 and 5 Lane Bain Fallon Proceedings 1993);
 - rostral displacement of the palatopharyngeal arch;
 - persistent Epiglottic entrapment;
 - persistent dorsal displacement of the soft palate;
 - arytenoid chondritis or chondroma; or
 - subepiglottic cyst(s);
 - cleft palate,
 - any other airway condition or lesion altering airway function or causing significant airway obstruction; or
 - any obstruction that in the opinion of the examining veterinarian is likely to result in exercise intolerance,and did so to the Vendor's knowledge at the fall of the hammer, within seven days of the sale, and that fact was not disclosed at the auction, the sale of that yearling will be cancelled on notice in writing by PGW to the Vendor and the Purchaser, and risk in the yearling will pass back to the Vendor as if it had never passed to the Purchaser. The Purchaser will be responsible for the costs of delivering the yearling to the Vendor.
- 37. Cancellation of sale—upper respiratory endoscopic conditions:** Notwithstanding any other provisions of these Conditions, at the Purchaser's request, risk and expense and on giving written notice to PGW not later than 2 hours following the conclusion of auctions on the sale day and before the yearling leaves the sales complex, the Purchaser may request that PGW arrange for an upper respiratory endoscopic evaluation (excluding the trachea) to be performed on the yearling by a veterinarian selected by PGW in its sole discretion. The evaluation will be carried out within 24 hours of the conclusion of auctions on the sale day and before the yearling leaves the sale complex. If, following that examination, the veterinarian concludes that the yearling has any of the following conditions:

- a. laryngeal hemiplegia (Grossly deficient abductor function of one or both Arytenoid cartilages, Grades 4 and 5 Lane Bain Fallon Proceedings 1993)
- b. rostral displacement of the palatopharyngeal arch;
- c. persistent Epiglottic entrapment;
- d. persistent dorsal displacement of the soft palate;
- e. arytenoid chondritis or chondroma;
- f. subepiglottic cyst(s); or
- g. cleft palate,
- h. any other airway condition or lesion altering airway function or causing significant airway obstruction; or
- i. any obstruction that in the opinion of the examining veterinarian is likely to result in exercise intolerance, and this/these condition(s) were not announced prior to the yearling being offered for sale, then the Purchaser may give notice that it wishes to cancel the purchase by notice to PGW in writing within 48 hours of the fall of the hammer, provided that the yearling has not left the sale complex. On receipt of such notice PGW will obtain an opinion by a panel of not more than three veterinary surgeons appointed by PGW in its sole discretion. PGW will accept the Purchaser's cancellation if the panel agrees with the first veterinarian's evaluation, but otherwise the sale will not be cancelled. The panel's deliberations may take beyond the initial 24 hours and the decision of the panel will be final, binding and conclusive on all parties. Immediately on notification in writing by PGW to the Purchaser that it accepts the cancellation of the sale of yearling, the sale is cancelled, all risk in the yearling passes back to the Vendor as if it had never passed to the Purchaser and the Purchaser will return the yearling to the Vendor. If the panel does not agree with the first veterinarian's evaluation, then the sale will continue. The Vendor and the Purchaser acknowledge that the veterinarians carrying out the examinations:
 - j. will report the results of such examinations to PGW only, who will then provide a copy of the reports to both the Vendor and the Purchaser on request; and
 - k. are not under any obligation to examine the yearling for any diseases or disorders other than those described in (a)-(i) above and they will only report on the existence or otherwise of those diseases and disorders.

38. Anabolic steroids: Harness Racing New Zealand has banned the use of anabolic steroids in standardbreds. The Vendor warrants that neither anabolic steroids nor any other banned out of competition substance has been injected into or administered to the yearling at any time before the sale. Notwithstanding any other provisions of these Conditions, the Purchaser may, on request to PGW not later than 2 hours following the conclusion of auctions on the sale day and before the yearling leaves the sale venue, have the yearling tested for anabolic steroids and other banned out of competition substances by an independent vet appointed by PGW, at the Purchaser's risk and expense. The samples will be taken within 24 hours following the conclusion of auctions on the sale day and before the yearling leaves the sale complex, and sent by the veterinarian to an industry approved testing laboratory. If anabolic steroids or any other banned out of competition substance are detected, the sale will be cancelled on notice in writing to the Vendor and Purchaser by PGW and the Vendor assumes all risk and cost relating to the yearling including its return, as if risk never passed to the Purchaser. PGW will not pay the purchase price for the yearling to the Vendor until the test results have been received, and only then if anabolic steroids and other out of completion substances have not been detected.

39. Breaking In and Gaiting: The Vendor warrants that the yearling has not been broken in and gaited prior to the sale. Should it be proved following the sale to PGW's satisfaction in its sole discretion that a yearling has been broken in and gaited the sale may be cancelled by PGW in its sole discretion by notice in writing to the Vendor and the Purchaser within 7 days of the sale. In that case, the Vendor will assume all risk and costs relating to the yearling including in respect of its return, as if risk never passed to the Purchaser.

40. Rights on cancellation: Neither the Vendor nor the Purchaser will have any claim against each other or against PGW or any other party involved in any aspect of the process should a sale be cancelled pursuant to any of clauses 12 and 36-39.

AUCTIONEER'S RIGHT TO EXCLUDE YEARLING FROM SALE

41. Exclusion by PGW: PGW reserves the right to exclude any yearling from the sale at any time, in its sole discretion. If PGW rejects a yearling they will pay a partial refund of the entry fee of \$225 plus GST for Australasian Classic Sale, \$200 plus GST for the New Zealand Premier Yearling Sale and \$100 plus GST for the New Zealand Premier Supplementary Session, and PGW will have no liability to the Vendor for any losses, costs or expenses incurred or suffered as a result of the exclusion.

HEADSTALLS AND RING BITS

42. Headstall: Each yearling entered for the sale will be sold with a headstall provided by the Vendor.

43. Ring bit: No yearling will be permitted into the sale ring without a bridge and ring bit provided by the Vendor and approved by PGW.

ACCOMMODATION

44. Stabling: PGW will provide stabling for yearlings entered in the sale at its sole discretion. The Vendor will pay for all stabling and accommodation on a daily basis.

PGW'S LIABILITY AND VENDOR'S INDEMNITY

45. Dispute regarding yearling: In undertaking the sale of the yearling, PGW acts as the Vendor's agent. In the case of any dispute regarding the yearling for sale/sold, the Purchaser's sole remedy will be against the Vendor. Under no circumstances will PGW be liable to the Purchaser in respect of any dispute relating to the yearling or the sale of the yearling.

- 46. No liability for PGW:** PGW accepts no responsibility for any cost, loss, expense or claim suffered or incurred by the Vendor or Purchaser as a result of:
- the failure of a Purchaser to pay for a yearling, or compensate the Vendor for any loss incurred on resale under clause 12;
 - any damage, injury, disease, accident, loss, death or otherwise suffered by the yearling whilst in PGW's control or at the sales venue generally, including between the fall of the hammer and the date of sale of the yearling to a third party under clause 12, and on the way to or from, during, or as a result of any veterinarian's examination;
 - the failure by either or both of the Vendor and/or Purchaser to sign or register any change of ownership or transfer of engagement papers;
 - any descriptions or other information provided in respect of a yearling being inaccurate; or
 - the cancellation of a sale pursuant to these Conditions.
- 47. Indemnity by Vendor:** The Vendor indemnifies PGW in respect of all costs, losses, expenses and claims incurred or suffered by PGW in connection with PGW's actions as the Vendor's agent and the sale or proposed sale of the Vendor's yearling by PGW.

NEW ZEALAND YEARLING SALES SERIES

48. The conditions of the New Zealand Yearling Sales Series apply to all yearlings in this sale that have been nominated either on the catalogue page or verbally from PGW rostrum for the relative NZ Yearling Sales Series.
49. The initial nomination fee of \$700.00 plus GST is paid 50% by the Vendor and 50% by the Purchaser. Any person who purchases a nominated yearling at this sale agrees unconditionally to enter the yearling in the New Zealand Yearling Sales Series and becomes immediately liable for the 50% Purchaser's initial nomination fee of \$350.00 plus GST.
50. Payment of further sustaining payments are optional.
51. Where a yearling has been repurchased by the Vendor at a figure over \$25,000 the Purchaser's share of the entry fee of \$350.00 plus GST must also be paid by the Vendor.
52. Failure to make payment as aforesaid may jeopardise future entry to the New Zealand Yearling Sales Series and will be reported to the NZ Sires Stakes Board. The Board in exercising its discretion as to recovery of payment may take whatever action it deems appropriate.
53. Yearlings in the Supplementary Session will have purchaser optional entry to the Sales Race Series. This is to be notified to PGW within 60 minutes of the end of the sale or of the after sale of any yearling and pay \$350.00 plus GST. No Vendor payment is required.
54. The terms and conditions of the New Zealand Yearling Sale Series are printed in full in this catalogue.

HEALTH AND SAFETY

- 55. Vendor obligations:** PGW, the Vendor and the Vendor's preparer have obligations under the Health and Safety at Work Act 2015 (HSWA). To comply with those obligations, the Vendor agrees to:
- have in place and will comply with its own health and safety procedures, which include management of attendance at the sale and it will provide these on request to PGW;
 - so far as reasonably practicable, ensure the safety of its workers and other persons at the sale grounds;
 - so far as reasonably practicable, ensure its workers comply with their obligations under HSWA, and with PGW's health and safety policies, as notified to the Vendor/Preparer from time to time;
 - ensure that its workers are provided with adequate training and supervision in all matters related to health and safety and that first aid equipment is available to its workers at all times;
 - consult, cooperate and coordinate activities and facilitate engagement with PGW and any other persons to the extent that the parties have overlapping duties in relation to health and safety;
 - carry out all necessary supervision of workers under the management or control of the Vendor/Preparer/Purchaser;
 - advise PGW if there has been a notifiable event on the sale grounds and complete any documents required by the HSWA and PGW in respect of reporting a notifiable event and ensure that these are forwarded to Worksafe New Zealand within the prescribed time periods;
 - comply with any directions of PGW regarding any investigation and corrective action and fully cooperate with PGW and provide all such assistance (including documents) it may require in the event of any investigation that occurs in connection with the sale grounds; and
 - ensure that its preparer complies with these obligations.
 - PGW strongly recommends that all vendors, preparers and any worker involved in the handling of a horse use personal protective equipment, including a vest and helmet while preparing and handling horses

GENERAL

56. The rights and remedies of PGW under these Conditions and any conditions of nomination of a yearling will not be affected by receipt by PGW of its selling commission and associated charges.
57. These Conditions of Sale and all contracts made hereunder will be governed by the laws of New Zealand and the New Zealand court will have sole jurisdiction to hear any disputes arising hereunder.
58. PGW's Terms of Sale current at the date of the sale apply to the sale and purchase of the yearling to the extent determined by PGW in its sole discretion. A current copy is available at www.pggwrightson.co.nz by clicking "View our terms and conditions" or in hardcopy on request.

PGG WRIGHTSON LIMITED – AUCTIONEERS

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