

Aquagait Equine Centre Terms & Conditions

All services provided by Aquagait shall be subject to the following Terms and Conditions which bind every owner and Client jointly and severally:-

1. Definitions

In these Credit Terms & Conditions:

“Act” means *Personal Properties Security Act 2009* as amended and in force from time to time.

“Animal” means the animal which the Service are performed on and is owned by the client.

“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 damage to the horse or progeny or as a consequence thereof which relate to any incident or matter which occurred as a result of the horse or progeny being exposed to Equine influenza or any other disease, injury or death whilst on Aquagait or as a result of movement of the horse from the practice for the purpose of service of the horse, foaling or treatment, and whether at common law, in equity or arising out of the provisions of any statute.

“Goods” means any pharmaceutical or veterinary product used to treat an equine.

“Service(s)” means the use of any of Aquagait’s facilities including water walking machines, walking machines, treadmills, paddocks, yards and stables.

“The Client” means the person, company or entity that is provided with services and/or goods by Aquagait and includes any and all persons, companies and/or entities that has a legal or beneficial interest in the Animal.

2. General

Aquagait Equine Centre agrees to agist, stable, feed, handle and exercise the horse in such manner as it shall deem appropriate in Aquagait’s absolute discretion including by using Aquagait’s facilities unless otherwise agreed with the Client.

The Client agrees to pay to Aquagait all agistment, veterinary, farrier, feed, transport for the entire time any horse is agisted or trained by Aquagait for the owner. The fees may be varied from time to time by Aquagait advising the Client in writing whether by account, invoice, statement or otherwise.

3. Appointment of Agent

The Client acknowledges that they have appointed a thoroughbred/Standardbred/equestrian horse trainer registered with any Principal Racing Authority in Australia as their agent. The Client further acknowledges that any thoroughbred/Standardbred/equestrian horse trainer who trains any of the owner’s horses has the power and authority to engage Aquagait’s services for that horse or horses on the Clients behalf and that the Client will be responsible for prompt payment of all accounts rendered by Aquagait to the Client in respect to those services.

4. Provision of Credit

In the event that the Client does not complete a formal application for credit, or payment at the time of service provision is not affected Aquagait provides credit on these terms and conditions only.

5. Monthly Invoice/Statements

Aquagait will provide a detailed invoice/statement for the provision of service(s) and the supply of goods as near as possible to month end or in some cases at the time of discharge.

6. GST

All services are charged inclusive of GST.

7. Payment Terms

Standard trading terms are strictly 14 days net from the invoice date.

8. Late Payment Sanctions

(a) Aquagait is entitled to charge a late payment of \$20.00 on any client’s account where there is an overdue portion remaining 40 days from the invoice date.

(b) If a client’s account is not settled in full within 60 days of the invoice date Aquagait has the right to send the account out for collection and or take legal action to recover all outstanding amounts. All costs including debt collection, commissions, solicitor fees, court fees and any out of pocket expenses will be the liability of the client. Credit will be no longer available.

(c) Any account that is sent for external collection will attract a surcharge of 12.5%.

9. Hold Blameless Acknowledgment – Release and Indemnity

The Client acknowledges that the provision of service(s) to the equine comes with an element of risk and that the Client is advised to insure against such losses.

The Client acknowledges and agrees that Aquagait and its facilities meet the industry standards and that Aquagait will be held blameless in respect of any injury, infection, disease or death of any horse in its care.

The Client releases Aquagait and its owners, partners, employees and agents of it from any claims and agrees to indemnify and keep indemnified Aquagait against any liability incurred in relation to any Claims relating to the horse or progeny and in each case, including but not limited to, solicitor-client, legal costs and expenses on a full indemnity basis.

Further Aquagait shall not be liable for any loss, damage or claims of whatsoever nature or howsoever arising from injury, sickness, disease or death caused to or sustained by the horse or progeny whilst under the care or control of Aquagait or its employees and agents.

Aquagait shall not be liable to the Client or any Owner (in the case of more than one, to any of them) for any claims, loss, damage, costs or expenses and arising out of any injury, damage or death which may arise or be caused and notwithstanding the same as attributable to or is in part attributable to recklessness, negligence, forbearance or neglect by Aquagait or any servant or agent of Aquagait or any other person in whose care or control Aquagait may place the horse or progeny.

10. Lien & Power of Attorney

The Client grants Aquagait a security interest in the horse and progeny, all insurance policies relating to the horse and progeny. The Client appoints Aquagait as its attorney for all purposes including to execute and file any and all financing statements and agricultural liens and irrevocable authorities to pay in any jurisdiction Aquagait or to any entity believed to be appropriate to secure any obligation of the owner as well as selling the horse at auction or privately. In the event that the charges are not timely paid, Aquagait may, without notice to the Client, take possession of the horse and progeny and either retain the horse or progeny in lieu of the obligation, or re-sell the horse or progeny privately or publicly in a manner in its sole discretion it believes to be advisable, in which event Aquagait shall credit the proceeds of the sale, after expenses of sale and maintaining the horse or progeny, to the Client. This right is in addition to all other rights to which the owner is entitled under law.

11. Retention

Without limiting Aquagait’s rights in respect of a lien or power of attorney Aquagait shall hereby be entitled to retain possession of the horse and progeny until all monies collection costs and solicitor client costs (including interest) due and owing have been received from the Client.

12. Law

The Law of New South Wales governs this agreement and the parties submit to the exclusive jurisdiction of that state.

13. Ownership, Syndicates, Client Address & Contact Details

Accounts raised for the provision of services that are split between syndicate members or multiple owners will attract a fee of \$6.00 for each separate account raised.

It is the responsibility of the client to inform Aquagait of any changes to horse ownership, syndicate or any changes to their address, postal address or contract details. Any changes to ownership, syndicate details that are not notified to Aquagait in the month following the provision of service(s) or the supply of goods that result in Aquagait re-invoicing those service(s) or goods will result in a service fee of \$12.00.

14. Security

The Client hereby grants Aquagait a security interest pursuant to the Act in the Animal as security for any monetary obligations and further acknowledges that Aquagait may at its discretion register a financing statement with the Personal Property Securities Register in relation to this security interest. The Client waives its rights as a debtor or Grantor under section 95, 120, 121(4), 123(2), 129(2)(a), 130, 132(3)(d), 132(4), 135 and 137(2) of the Act.