

2024 NUTRIEN NORTHERN PERFORMANCE SALE



TERMS AND CONDITIONS - 2024 NUTRIEN NORTHERN PERFORMANCE SALE, CHARTERS TOWERS

The terms and conditions set out below (and incorporated) are the terms and conditions of business by which Nutrien Ag Solutions Limited ABN 73 008 743 217 (**Nutrien**) allows you to use its auction and sale services at, and how Nutrien will conduct, the 2024 Nutrien Northern Performance Sale.

These terms and conditions are subject to amendment by Nutrien by notice from Nutrien prior to and during the 2024 Nutrien Northern Performance Sale. You should read these terms and conditions, and any other terms, conditions and requirements provided in connection with the 2024 Nutrien Northern Performance Sale, before participating. By bidding at auction or offering to purchase at private treaty for a Lot, or by nominating any Lot for sale at the 2024 Nutrien Northern Performance Sale, you agree to be bound by these terms and conditions. To the extent that an agent or other representative acts on behalf of a Customer, liability for obligations arising from these terms and conditions will pass to the relevant principal. Multiple Buyers or Vendors (as applicable) are jointly and severally liable for obligations arising from this agreement. Persons entering the 2024 Auction grounds are also deemed to have accepted, and understood as binding on them, the terms and conditions and any accompanying risks, obligations and responsibilities set out in clause 7 below. It is your responsibility to read and inform yourself of these conditions.

1. ALPA Terms

The standard ALPA Livestock Auction Terms and Conditions of Sale (February 2017 version) (**ALPA Terms**), are incorporated into these terms and conditions in full, unless amended by these terms and conditions, and are available from the following link:

<http://www.alpa.net.au/UserFiles/File/Documents/ALPA%20Livestock%20Terms%20and%20Conditions%20Feb%202017.pdf>, with copies also made available in the 2024 Sale Catalogue, at the Nutrien Ag Solutions Charters Towers branch, and at the 2024 Auction grounds. The

ALPA Terms are subject to the order of precedence set out in clause 3(iii). The ALPA Terms are amended as follows (without limitation):

- a) **Definitions:** A reference in the ALPA Terms to a term that is defined in clause 2, has the meaning given to it in clause 2 and not the meaning given to it in the ALPA Terms, and without limitation:
 - i. 'agent' or 'auctioneer' means Nutrien;
 - ii. 'livestock' means for a Horse auctioned or offered for sale pursuant to these terms and conditions;
 - iii. 'purchase price' means a reference to the Price;
 - iv. 'purchaser' means the Buyer; and
 - v. 'these terms and conditions' or 'this contract' means a reference to these terms and conditions.
- b) Clause 4 is deleted.
- c) Clause 11 is amended to read as follows (amendments identified by underlined text):

"The successful bidder at a livestock auction sale must give to the auctioneer at the fall of the hammer:

 - (a) *the purchaser's name; or*
 - (b) *the bid card number which identifies the bidder; or*
 - (c) *the name of the person on whose behalf the successful bid was made; and*
 - (d) *(if any), the Property Identification Code (known as the "PIC") of destination."*
- d) Clause 16 is amended so that the words *"unless agreed otherwise by Nutrien, on behalf of the Vendor"* is inserted at the end of the clause.
- e) Clause 19(a) is amended to read as follows (amendments identified by underlined text):

"Subject to the right of rejection in Clause 18 and the right of rescission in clause 20(b) of the terms and conditions, all conditions and warranties expressed or implied by law are hereby excluded from the sale to the extent that the law allows. All lots are open for inspection prior to the commencement of the sale and are sold with all faults, if any. No compensation shall be given for any faults, imperfections, errors of description, number in or of any lots sold or otherwise."
- f) Clause 20 is amended to read as follows (amendments identified by underlined text):

"If delivery is made to, or possession obtained by, the Buyer or its representative before full payment of the Price, Commission, plus any GST, then until full payment is received, the Buyer:

 - (a) *does not acquire title to the livestock;*
 - (b) *holds the livestock as bailee only for the Vendor;*
 - (c) *must act in a fiduciary capacity in its relationship with the Vendor;*
 - (d) *must store the stock separately or so that they are readily distinguishable from other livestock owned by the Buyer;*
 - (e) *is responsible for the safety and well being of the livestock;*
 - (f) *may make a bona fide sale for market value of any or all of the livestock. As between the Buyer and the subsequent buyer, the sale shall be made by the Buyer in its own name and not as agent for the Vendor, however as between the Vendor and Buyer, the sale shall be made as bailee and agent for the Vendor; and*
 - (g) *must keep and account for the proceeds of any subsequent sale separately from its other money and hold those proceeds, together with the benefits of any rights against subsequent buyers, on trust for the Vendor."*
- g) Chapter Three (clauses 26 to 32) and Chapter Four (clauses 33 to 37) shall be deleted.

2. Definitions

Terms have the meaning given to them in this clause 2.

2024 Auction means the auction for the sale of Lots on the 27th & 28th of May 2024 at the Charters Towers Indoor Equestrian Arena, QLD, or such other places or dates as notified by Nutrien from time to time.

2024 Nutrien Northern Performance Sale means the sale of Lots by way of auction at the 2024 Auction, or by way of private treaty following the Nutrien Northern Performance Sale 2024 Auction.

2024 Sale Catalogue means the sale catalogue for the 2024 Nutrien Northern Performance Sale issued by Nutrien.

ALPA Terms has the meaning given to it in clause 1.

ASHS means the Australian Stock Horse Society.

AQHA means the Australian Quarter Horse Association.

Business Day means a day (other than a Saturday or Sunday) on which banks are open for general business in Queensland.

Buyer means, for a Lot:

- a) sold at the 2024 Auction, subject to any Reserve and to the right prior to the fall of the hammer of Nutrien (as agent for the Vendor) to withdraw any Lot without declaring the Reserve, the party with the highest accepted bid for such Lot at the 2024 Auction and/or such party's principal where bidding as agent; or
- b) sold at private treaty, the party who makes the final offer to buy the Lot, which is accepted by the Vendor, or Nutrien as agent for the Vendor.

Claim means any claim, notice, demand, investigation, action, proceeding, litigation, or judgment however arising, whether present, unascertained, immediate, future or contingent, whether based in contract, tort (including negligence) or statute and whether involving a party to these terms and conditions or any third party.

Commission means the commission set out in clause 5(a), for the sale of a Lot.

Contract of Sale has the meaning given to it in clause 3(0).

Customer means each of:

- a) a Buyer;
- b) a Vendor; and
- c) a bidder for a Lot (whether or not successful).

EPRA means the Equine Performance Registry of Australia.

Government Agency means any government or governmental, administrative, monetary, fiscal or judicial body, department, commission, authority, tribunal, agency or entity in any part of the world and includes any self-regulatory organisation established under statute or any stock exchange.

GST has the meaning set out in the GST Act.

GST Act means A New Tax System (*Goods and Services Act 1999* (Cth)).

Price means the amount at which the Lot has been sold to the Buyer:

- a) in the case of the 2024 Auction, pursuant to clause 7 of the ALPA Terms, being the amount of the highest bid (excluding GST) where the bid equals or exceeds the Reserve; or
- b) otherwise, the amount of the final offer accepted by the Vendor, or by Nutrien (as selling agent) for the Lot, at private treaty (excluding GST), which shall include all federal, state and territory taxes and duties (other than GST), and any other additional Fees advised to the Buyer in writing in the 2024 Sale Catalogue for a Lot or otherwise advised by Nutrien prior to the sale, and:
- c) *plus* any GST added in accordance with clause 12 of the ALPA Terms, and clause 28(b) and clause 35.

Horse means each of:

- a) a Yearling;
- b) a Ridden Horse;
- c) and for the avoidance of doubt, a Horse is 'livestock' for the purposes of the ALPA Terms.

Insolvency Event in relation to a party means any of the following:

- a) the party enters into a scheme of arrangement with its creditors;
- b) the party is wound up or dissolved, or an administrator, liquidator or receiver is appointed;
- c) the party is placed under official management, commits an act of bankruptcy or is charged with a criminal offence; or
- d) the party is otherwise bankrupt or insolvent or unable to pay its debts when they fall due.

Nomination Fee means the fee set out in clause 5(b), for the pre-sale administration and cataloguing of a Lot.

Nutrien means Nutrien Ag Solutions Limited ABN 73 008 743 217.

Lot refers to the Horse(s) described against any lot number in the 2024 Sale Catalogue.

Reserve refers to the minimum price (excluding GST) that the Vendor will accept for a lot.

Ridden Horse means a horse that is sold for riding purposes, that is between 2 years and 15 years in age, as at 28th May 2024.

Vendor refers to the party consigning a Horse(s) for sale or such party's principal where that party is acting as agent.

Yearling means a horse that is more than 12 months in age and less than 2 years in age, and in any event, must be born after 1 August 2021.

3. Agency and role of Nutrien

- a) The Customers acknowledge and agree, that Nutrien acts as selling agent for the Vendor for the sale of a Lot:
 - i. by way of auction at the 2024 Auction; or
 - ii. if the Lot fails to sell at the 2024 Auction, by way of private treaty in the period commencing from the end of the 2024 Nutrien Sale Auction, to the date ending 10 Business Days after the date on which the 2024 Nutrien Northern Performance Sale occurred.
- b) The Customers acknowledge and agree that the Vendor instructs and authorises Nutrien to:
 - i. sell the Lot as the Vendor's agent in accordance with these terms and conditions;
 - ii. receive and hold all sale proceeds on the Vendor's behalf; and
 - iii. sign and/or complete on the Vendor's behalf, any documentation necessary to transfer ownership of the Lot to the Buyer.
- c) As selling agent, except where Nutrien has agreed to act as a Del Credere agent, Nutrien is not responsible for any default or failure to perform obligations by the Vendor, including any failure to pay. If any dispute arises in relation to a Lot, the dispute is between Buyer and Vendor. Nutrien is in no way involved or party to any Claim in respect of that Lot, and without limiting the indemnity in clause 9, and subject to clause 8(e), the Buyer and Vendor indemnify Nutrien, on a full indemnity basis, from all liability, including all costs incurred by the Buyer or Vendor in relation to such Claim. Nutrien does not act as del credere agent for the Vendor.



2024 NUTRIEN NORTHERN PERFORMANCE SALE

- d) **Contract of Sale for a Lot:**
- i. When a Buyer purchases a Lot at the 2024 Nutrien Northern Performance Sale, the Buyer is entering a contract directly with the Vendor for the purchase of that Lot (Contract of Sale). Nutrien is not party to the Contract of Sale, and is not responsible for ensuring compliance with, or enforcing, the terms of any Contract of Sale.
 - ii. A Contract of Sale between the Vendor and the Buyer is formed:
 - A. in the case of an auction, at the fall of the auctioneer's hammer which marks the acceptance of the highest bid (which must be at no lower than the Reserve unless the Vendor expressly agrees otherwise). Unless otherwise agreed in writing with Nutrien, the individual physically present at the 2024 Auction who signals the bid accepts personal liability to pay the Price.
 - B. in the case of a Lot purchased by private treaty, when Nutrien (as selling agent) or the Vendor (in the case of a sale not facilitated by Nutrien) accepts a final offer from the Buyer to buy the Lot either verbally or in writing. The Vendor will provide either the Contract of Sale if in writing, or details of the Contract of Sale in writing if the Contract of Sale is verbal only, to Nutrien as soon as practicable after the Contract of Sale by private treaty is created.
 - iii. The Contract of Sale is comprised of the following:
 - A. these terms and conditions;
 - B. the ALPA Terms;
 - C. the terms and conditions identified in the listing or 2024 Sale Catalogue for the Lot;
 - D. any other terms and conditions which are specifically referenced in the 2024 Sale Catalogue or the listing for the Lot; and
 - E. in the case of a sale by private treaty, any other additional terms and conditions agreed to between the parties.
In the event of an inconsistency between the above documents, the document listed first will prevail to the extent necessary to resolve the conflict.
 - iv. Without limitation, the Contract of Sale includes the following terms:
 - A. The Vendor must sell and the Buyer will buy the Lot at the Price on the terms of the Contract of Sale.
 - B. Nothing in this Contract of Sale is intended to have the effect of excluding any consumer guarantees under the Australian Consumer Law or any other applicable Law that cannot be excluded, restricted or modified by agreement of the parties (Non-Excludable Rights).
 - C. If a consumer guarantee under the Australian Consumer Law applies to the Lot, and the Vendor fails to comply with that guarantee, to the extent permitted by law, the Vendor's liability for that failure is limited to (at the Vendor's option), supplying or replacing the Lot with an equivalent Lot. This limitation does not apply to a breach of consumer guarantees relating to clear title, undisclosed securities and undisturbed possession under sections 51 to 53 of the Australian Consumer Law or if a Lot is of a kind ordinarily acquired for personal, domestic, household use or consumption.
 - D. Subject to any Non-Excludable Rights the Buyer may have:
 - (i) subject to the express provisions of this Contract of Sale, all Lots are purchased on an "as is, where is" basis; and
 - (ii) subject to the express provisions of this Contract of Sale, the Buyer is not entitled to a refund or any form of compensation from the Vendor as a result of any faults or imperfections in the Lot.
- e) Nutrien does not hold risk or title in any Lot, and does not bid for any Lot in its own capacity. For the avoidance of doubt, at no point does risk or title in a Lot pass or transfer to Nutrien.
- f) Nutrien's authority to act as selling agent is limited to the authority set out in these terms and conditions, unless agreed otherwise.
- g) Whenever Nutrien reasonably requests a Customer to do anything:
 - i. to ensure that the transactions contemplated by these terms and conditions and any Contract of Sale are fully effective and enforceable, and in respect of any security interest, perfected with the contemplated priority;
 - ii. for more satisfactorily assuring or securing to Nutrien the property the subject of any such security interest pursuant to clause 20 of the ALPA Terms in a manner consistent with the terms and conditions; or
 - iii. for aiding the exercise of any power in these terms and conditions, the Customer shall do it promptly at its own cost. This may include obtaining consents, getting documents completed and signed, supplying information, delivering documents and evidence of title, or giving possession with respect to any Lot.
- h) **Registration:** Bidders must register to bid and obtain a bid card prior to the commencement of the 2024 Auction. Registration requires that bidders provide, without limitation, the bidder's name, email address, address, phone number, buyer name (if acting as agent), and proof of identity and Nutrien may impose other obligations or conditions on the registration of bidders in its discretion. A prospective buyer may bid through the 'AuctionsPlus' platform offered by AuctionsPlus Pty Ltd ACN 072 403 984, in which case the buyer will be the principal.
4. **Lots are sold 'as is':** To the extent permitted by law:
 - a) no guarantees, warranties or representations are made (express or implied) by Nutrien in relation to the nature and condition of any Lot;
 - b) Nutrien disclaims liability for any misrepresentations, errors or omissions, whether verbal or in writing, in the 2024 Sale Catalogue, or any supplemental material. All factual information provided by the Vendor is merely passed on by Nutrien from the vendor or other source. Nutrien has made no attempt to verify this information, other than as described in these terms and conditions;
 - c) all additional statements of opinion represent the specialist opinions of Nutrien employees and should not be relied upon as statements of fact; and
- d) responsibility remains with the Buyer to satisfy its, his or herself by inspection and evaluation prior to purchase as to the nature and condition of any Lot.
5. **Fees and charges:**
- a) **Commission:** A commission of 8% (plus GST) of the Price (before GST is added) will be payable by the Vendor to Nutrien in respect of each Lot catalogued and sold (**Commission**). STRICTLY NO REBATE WILL BE OFFERED. The Commission is due and payable at the same time that the Price is due and payable by the Buyer and Nutrien will deduct the Commission from the Price.
 - b) **Nomination Fee:** A prospective Vendor must pay an invoiced nomination fee, which is the sum of:
 - i. \$400 (including GST) for Ridden Horses; or
 - ii. \$400 (including GST) Yearlings (**Nomination Fee**), at the time for payment set out on the invoice.
 - c) The Commission and Nomination Fee payable pursuant to this clause 5, applies to a sale of a Lot by way of:
 - i. auction at the 2024 Auction;
 - ii. private treaty, facilitated by Nutrien as selling agent on behalf of the Vendor in the period commencing from the end of the 2024 Nutrien Sale Auction, to the date ending 10 Business Days after the date on which the 2024 Nutrien Northern Performance Sale occurred; or
 - iii. private treaty, arranged by the Vendor directly with the Buyer, even if Nutrien has not facilitated such sale, where such sale occurs in the period commencing from the end of the 2024 Nutrien Northern Performance Sale, to the date ending 10 Business Days after the date on which the 2024 Nutrien Northern Performance Sale occurred,In the event that the Commission payable in accordance with clauses 5c)ii) or 5c) iii), the Commission becomes a debt immediately due and payable to Nutrien by the Buyer. Any such Commission must be paid in immediately available funds as directed by Nutrien in accordance with the applicable tax invoice.
6. **Nutrien's rights and discretion**
- a) Nutrien reserves:
 - i. the right to refuse entry of any Horse for sale at the 2024 Nutrien Northern Performance Sale for any reason and at any stage, including without limitation, where these terms and conditions are not satisfied in respect of the proposed Lot;
 - ii. the right to restrict the number of Lots, or which Lots, proceed to being offered for sale at the 2024 Nutrien Northern Performance Sale, including without limitation, because of venue conditions; and
 - iii. absolute discretion over the conduct of the 2024 Nutrien Northern Performance Sale including the regulation of bidding and its increments at the 2024 Nutrien Auction. This discretion extends to the challenge or rejection of any bid, the right to withdraw any Lot and the right to determine the successful bidder or reoffer a Lot in the event of a dispute.
 - b) If a Nomination Fee has been paid in respect of a proposed Lot:
 - i. if the Lot has not yet been catalogued by Nutrien pursuant to clause 18(b) (and substantial work has not yet been completed by Nutrien to catalogue the Lot, in Nutrien's reasonable opinion), then if the Lot is withdrawn from sale by the Vendor before this time, Nutrien will refund the Nomination Fee within a reasonable time; or
 - ii. if the Lot has been catalogued pursuant to clause 18(b) (or, substantial work has already been completed by Nutrien to catalogue the Lot, in Nutrien's reasonable opinion), then the Nomination Fee will not be refunded.An exception applies and a refund may be paid by Nutrien at its absolute discretion within a reasonable time, where a Lot does not proceed to being offered for sale at the 2024 Nutrien Northern Performance Sale:
 - A. as Nutrien has exercised its rights in accordance with these terms and conditions; and
 - B. there has been no instance of non-compliance or breach by the Vendor (or the Vendor's agent or employee) with these terms and conditions, including without limitation, any misrepresentation by the Vendor, failure to provide information, and/or non-compliance by the Vendor with law.
7. **General – Entry at 2024 Auction grounds**
- Persons entering the 2024 Auction grounds are deemed to have accepted, and understood as binding on them, these conditions and any accompanying risks, obligations and responsibilities.
- a) Persons who are accompanied by minors are responsible for the care, acts or omissions and supervision of those minors at all times.
 - b) Nutrien is not liable nor does it accept any responsibility for any loss or damage whatsoever to any person or property or the death or injury suffered to any person or animal whilst at the 2024 Auction grounds.
 - c) Without limiting the indemnity in clause 9, and subject to clause 8(e), persons entering the 2024 Auction grounds indemnify Nutrien against any loss or liability, cost or expense or damages suffered by them, or any person or animal under their control arising from or in relation to the entry either by person, animal, vehicle or otherwise.
 - d) Nutrien may refuse admission to or eject persons or animals from the 2024 Auction grounds at its sole discretion.
 - e) Persons entering the 2024 Auction grounds must adhere to the Occupational Health & Safety (OH&S) legislation.
 - f) Any person involved with handling or riding a Horse within the perimeter of the 2024 Auction grounds whether prior to, during or after the 2024 Auction including (but not limited to) strappers, handlers, trainers or riders does so at their own risk and must sign and complete a waiver before doing so.
 - g) An equestrian helmet approved by the Australian Standards Association or international equivalent, with a chin strap securely fastened, must be worn by all riders/competitors under 18 years of age when riding within the perimeter of the 2024 Auction grounds, not just the sale ring.

2024 NUTRIEN NORTHERN PERFORMANCE SALE



LIABILITY AND INDEMNITIES

8. **General liability:**
- Subject to clause 8(a)(iv), Nutrien excludes any and all liability to Customers and their agents (if any), howsoever arising (including negligence) for:
 - consequential loss;
 - losses that a Customer suffers or incurs in connection with the acts or omissions of any agent, assessor or other third party that they engage or interact with in connection with the sale or purchase of a Lot, including liability under any Contract of Sale;
 - Nutrien's exercise of its rights pursuant to these terms and conditions;
 - actions taken by Nutrien in relation to these terms and conditions in accordance with Nutrien's obligations at law or any order issued by a court of law or relevant government authority, whether directly or indirectly arising in connection with the 2024 Nutrien Northern Performance Sale, but excluding where arising from Nutrien's breach of law that is not caused by the acts or omissions of a Customer or their agent (if any); and
 - to the extent possible at law, any accident, damage, injury to Horses, riders, beasts, ground spectators or any other person/property.
 - Subject to clause 8(a)(iv), Customers and their agents (if any) exclude any and all liability to Nutrien howsoever arising (including negligence) for consequential loss.
 - Subject to clause 8(a)(iv), the liability of Nutrien for any loss or damage, howsoever arising (including negligence) suffered by a Customer under or in connection with these terms and conditions or the Customer's use of, or participation in the 2024 Nutrien Northern Performance Sale, in connection with any Claim is limited in the aggregate to the greater of:
 - the re-supply of the service or the payment of the cost of having such services supplied again; and
 - the fees and costs paid by the Customer to Nutrien in accordance with these terms and conditions.
 - Clauses 8(a), 8(b), and 8(c) do not apply:
 - to Nutrien's liability to a Customer for losses that they suffer or incur relating to Nutrien's failure to comply with any consumer guarantee set out in the Australian Consumer Law;
 - to a Customer's liability to Nutrien for non-payment of fees, costs, taxes and expenses or any other express obligation to pay Nutrien fees, costs, taxes and expenses or any other amount or under any indemnity; or
 - to the extent that they would cause Nutrien or a Customer to contravene a law or cause the applicable clause to be void or unenforceable.
 - A party's liability to the other in connection with these terms and conditions will be reduced proportionately to the extent that the other party or any of its personnel caused that loss.

9. Indemnities

Subject to clause 8(e), each Customer agrees to defend, indemnify, keep indemnified and hold harmless Nutrien from and against any Claim or loss, liability, cost or expense incurred by Nutrien (or Nutrien's affiliates, employees or representatives) in connection with:

- a breach by the Customer of these terms and conditions or any Contract of Sale; and/or
 - the Customer's acts or omissions in connection with these terms and conditions or any Contract of Sale including in connection with any Lot that a Vendor may offer, or any bid or any dispute relating to a Contract of Sale,
- except to the extent that the Claim or liability arises from Nutrien's fraud, wilful misconduct, negligence or breach of these terms and conditions (an **Indemnified Amount**). An Indemnified Amount will be a debt due and payable to Nutrien on and from the day that the liability arises.

PRE-PURCHASE INSPECTION AND AVAILABILITY

10. All prospective buyers have the opportunity to and are urged to inspect any Lot personally and thoroughly prior to bidding. Buyers are solely responsible for the adequacy and extensiveness of such inspection.
11. Prospective buyers have the right to request pre-sale x-rays of specific Lots they are interested in, subject to the Vendor's consent to making the Lot available for such x-ray. Pre-sale x-rays must be performed at a reasonable time prior to the sale of the Lot, and at the prospective buyer's expense.
12. Any pre-purchase inspections (including x-rays) are to be arranged between the prospective buyer and the Vendor for a Lot directly, and are at the Vendor's discretion.
13. Nutrien does not guarantee the availability of a Horse for any pre-purchase inspection (including x-rays) ahead of a sale of a Lot, or the availability of a Horse for sale at the 2024 Nutrien Northern Performance Sale and/or the associated campdraft/challenge events.

WARRANTIES

14. **Vendor Warranties:** The Vendor represents and warrants that:
- it is the legal and beneficial owner of the Lot free of all mortgages, charges, liens, encumbrances and adverse interests;
 - it is entitled and competent to sell, deliver and transfer unencumbered legal and beneficial title to the Lot in accordance with the Contract of Sale;
 - the Vendor's details provided for a Lot are current, correct, and complete, including without limitation, their name, ACN and ABN (if any), contact details, GST status and account details for the payment of proceeds of sale;
 - the Lot complies with the information provided by it for the listing, and such information is current, correct and corresponds with the details on the Horse's registration certificate, including without limitation, sex, date of birth, colour, brands and markings; and
 - the Lot complies with any express representation, warranty, condition or other assurance provided by the Vendor in the nomination for listing of the Lot that are additional to those set out in paragraph (d) above that relate in any way to the quality, compliance with any description, fitness for purpose, compliance with laws or standards of the Lot (but excluding any provision dealing with any period for acceptance or any remedy associated with such warranty).

15. **Buyer Warranties:** The Buyer represents and warrants to the Vendor and Nutrien that it has fully informed itself in relation to all legal and operational requirements related to the purchase, handling and transportation of the Lot and made its own assessment of the suitability of the Lot for the use to which the Lot will be put.
16. **Mutual Warranties:** Each Customer and Nutrien represents and warrants in favour of each other party to these terms and conditions that:
- in respect of a Buyer and Vendor only, that it has the power to execute, deliver and perform its obligations under the Contract of Sale;
 - it has the power to execute, deliver and perform its obligations under these terms and conditions;
 - all necessary corporate and other action has been taken to authorise the execution, delivery and performance of, these terms and conditions, and in respect of a Buyer and Vendor only, the Contract of Sale, and the transactions contemplated by them; and
 - it is not the subject of an Insolvency Event.

SALE ENTRY REQUIREMENTS

A Horse will not be eligible for sale in a Lot at the 2024 Nutrien Northern Performance Sale unless it complies with the sale entry requirements in these terms and conditions, including as set out below. A Horse may be rejected from, and a Lot withdrawn from, the 2024 Northern Performance Sale if the following conditions are not complied with. However, Nutrien reserves the right to accept entry of any Horse for sale at the 2024 Nutrien Northern Performance Sale outside of these terms and conditions, on terms agreed between the Vendor and Nutrien.

17. Eligibility for sale in a Lot

- All Horses offered for sale at the 2024 Nutrien Northern Performance Sale must be either:
 - an Australian Stock Horse registered with the ASHS;
 - an Australian Quarter Horse registered with the AQHA; or
 - a Horse registered with the EPRA.
- Horses must be fully registered with either the ASHS, AQHA or EPRA prior to the date of the 2024 Auction, and the name of the registered owner for a Horse must correspond with that of the Vendor of the Lot. For the avoidance of doubt, a Horse may be entered for sale in a nomination form with no registration, a pending registration or a registration in the name of another party (which is to be transferred to the Vendor) at the time the nomination form is submitted, provided that the Horse is fully registered in the name of the Vendor by the day of the 2024 Auction. If a Horse has been entered for sale in a nomination form but has not been fully registered in the name of the Vendor by the day of the 2024 Auction, then Nutrien will not offer the Lot for sale, will withdraw the Lot and the Nomination Fee will not be refunded.
- For Horses to be eligible to be sold in a Lot as a:
 - A Yearling, the Yearling MUST BE LED and not ridden.
 - A Ridden Horse, it must not be a broodmare which is either pregnancy tested and in foal, or with a Foal at Foot.
- NO WEANLINGS (meaning a Foal, and that is not yet a Yearling) may be sold independently.
- The Vendor and the proposed Lot must satisfy the procedural, pre-works and inspection requirements set out in clause 18 below.

18. Procedure for nominations, pre-works and inspections

- Nomination form and Nomination Fee:** Prospective Vendors must submit a nomination form for Horses to be sold in the 2024 Nutrien Northern Performance Sale, by submitting a nomination form to Nutrien through the Nutrien Live platform (or such other method as specified by Nutrien in writing from time to time) and in accordance with the instructions and time limit set out in the form or such other method as required by Nutrien. All requested details must be provided, including without limitation, the Vendor's name, ACN and ABN (if any), contact details, GST status and account details for the payment of proceeds of sale. A completed Hobby Farm Declaration must be provided, if relevant to a Vendor. Prospective Vendors must pay the Nomination Fee when submitting a nomination form. The Vendor must email or provide the following documents to Nutrien before the lot will be catalogued under paragraph (b):

For a Yearling or a Ridden Horse Lot:

- a copy of the breed society (ASHA, AQHA or EPRA) registration certificate for the Yearling or Ridden Horse (as applicable) (unless not yet registered in the name of the Vendor).
- Catalogued:** If the proposed Lot satisfies these terms and conditions on the papers, and the Nomination Fee has been paid, then Nutrien will catalogue the Horse in the 2024 Sale Catalogue, and the Horse(s) will be issued a Lot number.
 - Pre-purchase buyer inspections:** Pursuant to clauses 10-13 above, prospective buyers may directly arrange with the Vendor to inspect a Lot or to request a pre-sale x-ray of a Lot, each at the prospective buyer's expense.
 - Pre-sale breed society inspection, and documentation:** The Vendor is responsible for the transport of the Lot to the 2024 Auction grounds. All sale Lots will be allocated a stable, and are to be stabled in the horse sale stabling area at the 2024 Auction grounds. Prior to the auction and pre-works, Nutrien will engage each relevant breed society (ASHA, AQHA or EPRA) to attend at the auction and conduct a pre-sale inspection as sub-agent for the Vendor. This inspection will be conducted by an independent inspector, accredited by the relevant breed society, who will confirm that each of the following criteria is satisfied in their reasonable opinion:
 - By no later than the 2024 Auction, the Vendor must provide Nutrien with a signed Horse Health Declaration in respect of each Horse in a Lot. The Vendor must provide the breed society inspector with original versions of the following documents:

For a Yearling or a Ridden Horse Lot:

 - breed society (ASHA, AQHA or EPRA) registration certificate for the Yearling or Ridden Horse (as applicable); and
 - transfer paper for the Yearling or Ridden Horse (as applicable) signed by the Vendor, with consideration left blank.



2024 NUTRIEN NORTHERN PERFORMANCE SALE

- ii. The Horse is to be presented free of undesirable characteristics and conformation faults, as per AQHA, ASHS or EPRA regulations, as applicable, obtainable from the relevant breed society.
- iii. All colourings, markings and brands (location, brand numbers) described on the breed society registration certificate for a Horse must be clearly visible and identical to the details of the Horse presented at the pre-sale inspection.
- iv. The breed society inspector may require a veterinary inspection prior to the sale. A Horse in a Lot must be made available by the Vendor for such veterinary inspection if required, or if refused, then the Lot may be withdrawn and the Horse rejected from sale. If the veterinary inspection is unsatisfactory, then Nutrien or the inspector may require veterinary treatment to be completed, and/or the Lot may be withdrawn and the Horse rejected from sale.
- v. The Horse must be in suitable condition to be offered for sale at the discretion of the breed society inspector and Nutrien as selling agent. If satisfied, the inspector will endorse the Horse, and approve the Lot for sale at the 2024 Nutrien Northern Performance Sale. Any Horse that is not fully endorsed by the relevant breed society to proceed to sale, will not be permitted for sale, unless Nutrien agrees otherwise. If a Horse has been approved for sale by the relevant breed society inspector, Nutrien retains the discretion to reject a Horse or Lot from sale.

e) **Drug testing and Nutrien's pre-sale inspections:**

- i. Nutrien reserves the right to conduct its own pre-sale inspections, and to request its own pre-sale veterinary inspection and/or treatment for a Lot before sale, at its discretion, and may withdraw a Lot from sale at any time, including as a result of its inspections.
- ii. Horses with no disclosure of nonstandard medical procedures, or veterinary certificates to state otherwise, pursuant to clause 19(b) below, may be nominated for drug testing, at the Vendor's cost. If the Vendor refuses to have a Horse drug tested where required by Nutrien under this clause, then the Lot may be withdrawn and the Horse rejected from sale.
- f) **Pre-works:** When all pre-sale inspections by the breed society inspector and Nutrien are complete, the Horse will be led or ridden (as applicable) through the sale ring by the Vendor or its agent or employee, including without limitation any trainer, ahead of the 2024 Auction for display to prospective bidders.

- g) **Sale:** The Lot will be auctioned at the 2024 Auction. If no purchase of the Lot occurs at the 2024 Auction, and the Lot is passed in, the Lot will progress to any sale by private treaty. If no sale is made either at 2024 Auction, or by private treaty, then the agency relationship between Nutrien and the Vendor shall come to an end.

Nutrien and its employees, contractors or agents may handle a Horse or Lot to facilitate the 2024 Nutrien Northern Performance Sale, as necessary in its discretion. These procedural requirements are in addition to any additional terms and requirements as required by Nutrien from time to time.

Vendors are advised to review the relevant society (AQHA, EPRA or ASHS) regulations relating to Horse identification, obtainable from the relevant society – in particular the verification of brands and marking discrepancy.

19. **Additional requirements for the sale of a Lot**

- a) Where the Vendor has retained semen or embryos from a Horse that is offered for sale in a Lot, these details must be disclosed by the Vendor to Nutrien prior to the sale of the Lot. Nutrien, as auctioneer, will announce these details at time of the sale, either by way of an announcement at the 2024 Auction, in the 2024 Sale Catalogue or by subsequent notice for any subsequent sale by private treaty.
- b) The Vendor must disclose any nonstandard medical procedure (excluding general dental, castration, and branding). Non-disclosure may result in the sale of a Lot being rescinded. Subject to clause 8(e), the Vendor shall indemnify and hold harmless Nutrien in respect of any Claim or liability which arises in relation to a rescinded sale of a Lot, by reason of a failure of the Vendor to disclose a nonstandard medical procedure in accordance with this clause.
- c) Vendors carry sole responsibility for informing their Nutrien auctioneer/s of any faults, defects or existing conditions affecting a Lot, to ensure accurate disclosures can be made ahead of, and during, the 2024 Auction, or any sale by private treaty. Subject to clause 8(e), the Vendor shall indemnify and hold harmless Nutrien in respect of any Claim or liability which arises in relation to such Lot that is sold, where the Vendor has defaulted in its obligation to inform Nutrien of a fault, defect or existing condition.
- d) No uncatalogued Horses (being a Horse that is not entered in the 2024 Sale Catalogue and offered for sale at the 2024 Auction) will be allowed to be offered for private sale or advertised for private sale in or around the sale arena at the 2024 Auction.

RISK AND TITLE

20. Title to a Lot will pass to the Buyer on payment of the Price, the Commission, plus any GST.
21. Risk in a Lot (including risk of loss or damage) is held by the Vendor and passes to the relevant Buyer:
 - a) for a sale by auction at the 2024 Auction, on the fall of the hammer which marks the acceptance of the highest bid (which must be at no lower than the Reserve) for that Lot; or
 - b) for a sale by private treaty, at the time the Buyer takes possession and control of the Lot. In the case of a Horse, the Buyer takes possession and control of the Lot for each animal individually, as each animal is loaded onto the truck of the Buyer's freight services provider.The Buyer assumes risk of the Lot in all respects from this date and neither Nutrien nor the Vendor will be liable for loss or damage occurring to the Lot after this date. The Buyer is encouraged to make arrangements to ensure insurance cover is maintained for the Lot from the date risk passes to it.
22. Notwithstanding that a Buyer makes a claim against Nutrien for damage or loss after sale of a Lot (whether or not risk has passed), the Price, Commission, plus any GST shall remain payable to Nutrien.
23. When risk in a Lot passes, all responsibility in the Lot will pass to the Buyer, including for feeding, rugging, transport and insurance from that time. The Buyer must make its own

arrangements for the handling and transport of a Lot. Nutrien is not responsible for loading or safely securing the Lot onto the Buyer's transport, which is the duty of the Buyer.

24. Unless otherwise agreed with Nutrien, Buyers must take possession of a Lot as soon as possible after risk has passed, and no Horse will be stored at the 2024 Auction grounds on behalf of a Customer after the 2024 Auction.

POST SALE CLAIMS

25. Any post sale x-rays or veterinary checks will not be grounds for reversal or rescission of a sale of a Lot, other than pursuant to clause 18 of the ALPA Terms or to clause 19(b). Any post sale disputes as a consequence of subsequent x-ray or veterinary check results will be strictly a matter between Vendor and Buyer. If a sale is reversed or rescinded, Nutrien is entitled to retain the Nomination Fee and Commission (plus any GST) for the sale.
26. Any Horse sold at a Nutrien Northern Performance Sale (whether the 2024 Nutrien Northern Performance Sale, or the Nutrien Northern Performance Sale or Toomba sale in previous years) that is subsequently on-sold on by any means other than at a subsequent Nutrien Northern Performance -Horse Sale will NOT be eligible to compete in a challenge or campdraft event at the subsequent Nutrien Northern Performance -Horse Sale.

PRICE AND PAYMENT

27. **Time for payment**
The Buyer must pay Nutrien (as selling agent) the full amount of the Price (plus any GST and Commission) in immediate funds. Clause 15 of the ALPA Terms is amended, such that the Price (plus any GST and the Commission) is due and payable by a Buyer:
 - a) for a sale at the 2024 Auction, on the fall of the hammer, unless agreed otherwise with Nutrien; or
 - b) for a sale by private treaty, at the time set out in the relevant tax invoice for payment, unless agreed otherwise.If payment is due from a Buyer pursuant to clause 28(a), the relevant tax invoice will be provided at the time payment is due and made (unless Nutrien agrees to payment being made after the 2024 Nutrien Northern Performance -Sale).

28. **Components of the Price:**

- a) Unless otherwise stated in these terms and conditions, the Price is inclusive of all federal, state and territory taxes and duties (other than GST).
 - b) The Price excludes GST. In addition to the Price, the Buyer must also pay, in accordance with clause 35, the amount of GST payable in respect of the taxable supply for which the Purchase Price is consideration.
- Time is of the essence in relation to payment.
29. Nutrien may set off, or otherwise account for, amounts paid by the Buyer in respect of a Vendor's Lot against other amounts owed by the Vendor to Nutrien or claimed to be so owed whether arising under or in connection with the sale of a Lot or otherwise.
 30. In the event of a dispute between Vendor and Buyer about a Lot, the Price (and any GST and Commission) remain due and payable to Nutrien.
 31. Except where Nutrien has agreed to act as a Del Credere agent, if the Buyer does not pay the Price for a Lot after risk and title pass to the Buyer, Nutrien shall not be liable for any loss or damage suffered by the Vendor. The Vendor must pursue the Buyer directly, and agrees to fully release, indemnify and hold harmless Nutrien from any Claim or liability associated with any such default. The provisions of clause 3(c) will also apply.
 32. All invoices will be issued to the Buyer by email from Nutrien. If a Buyer has bid through a buyer's agent, the invoice will be issued to the Buyer's agent, unless Nutrien has received instructions otherwise as part of the registration for bidding.

GST

- Words or expressions used in this clause that are defined in the GST Act have the same meaning given to them in the GST Act. These terms apply to each Contract of Sale as if incorporated therein, with any necessary amendments.
34. **GST exclusive:** Unless otherwise stated, any amount specified in these terms and conditions, or in a Contract of Sale, as the consideration payable for any taxable supply does not include any GST payable in respect of that supply.
 35. **Liability to pay GST:** If a party makes a taxable supply under these terms and conditions, or under a Contract of Sale (**Supplier**), then the recipient of the taxable supply (**Recipient**) must also pay, in addition to the consideration for that supply, the amount of GST payable in respect of the taxable supply at the time the consideration for the taxable supply is payable. For the avoidance of doubt, if the taxable supply is made through Nutrien as selling agent, the amount payable by the Recipient in relation to GST must be paid to Nutrien.
 36. **Tax invoice:** Other than as set out in clause 27(a), and notwithstanding the foregoing, the Recipient is not obliged under these terms and conditions, or in a Contract of Sale to pay the amount of any GST payable until Nutrien, as selling agent in respect of a Lot, or in its own capacity in respect of the Commission or Nomination Fee, provides it with a valid tax invoice for the taxable supply.
 37. **Adjustment event:** If an adjustment event arises in relation to a taxable supply made by a Vendor under these terms and conditions, or in a Contract of Sale, the amount paid or payable by the Recipient pursuant to clause 35 will be amended to reflect this and a payment will be made by the Recipient to Nutrien (as selling agent) or vice versa as the case may be within 5 business days of the Recipient being issued with an adjustment note in relation to that adjustment event.
 38. **Reimbursement of expenses:** If a third party makes a taxable supply and these terms and conditions, or a Contract of Sale, requires a party to that agreement (the payer) to pay for, reimburse or contribute to (pay) any expense or liability incurred by the other party to that third party for that taxable supply, the amount the payer must pay will be the amount of the expense or liability plus the amount of any GST payable in respect thereof but reduced by the amount of any input tax credit to which the other party is entitled in respect of the expense or liability.
 39. **Non merger:** This clause does not merge on completion and will continue to apply after expiration or termination of these terms and conditions, and each Contract of Sale.

DEFAULT

- Buyer breach**
40. If a Buyer fails to comply with any of these terms and conditions or if any payment is dishonoured, any monies which such Buyer shall have paid to Nutrien on account of the purchase or purchases shall be absolutely forfeited to the Vendor and the Vendor and

2024 NUTRIEN NORTHERN PERFORMANCE SALE



Nutrien shall be at liberty to sue such Buyer for damages, or at the Vendor's option, for the Vendor to resell the Lot in any manner and upon such terms and conditions as they think proper.

41. Without limiting clause 3(c), if the Buyer is in default of any of its obligations under these terms and conditions or any interdependent or separate agreement with Nutrien, Nutrien may commence proceedings against the Buyer (without notice) for monies owing and/or to recover damages from the Buyer, including legal fees, debt collection costs and associated disbursements incurred by Nutrien, on an indemnity basis.
42. If the Buyer is in default of any of its obligations under these terms and conditions, a Contract of Sale, or any interdependent or separate agreement with the Vendor, the Vendor may:
 - a) commence proceedings against the Buyer (without notice) for monies owing and/or to recover damages from the Buyer, including legal fees, debt collection costs and associated disbursements incurred by the Vendor, on an indemnity basis;
 - b) without notice to the Buyer, resell the Lot or Lots in any manner upon such terms and conditions as it may think proper and recover all losses, costs and expenses incurred from any such resale from you by way of damages (including administration costs, marketing costs and other costs associated with relisting and negotiating with potential purchasers of a Lot), whether or not that amount exceeds the Price that was to be paid by the Buyer for the Lot or Lots and any Commission, and the cost of advertising in respect of any such resale;
 - c) forfeit any monies paid by the Buyer in consideration for a Lot and/or Lots; and
 - d) pursue the Buyer for the difference between the default bidding price and the subsequent sale price (if there is a loss to the Vendor).

For the avoidance of doubt, this clause 43 shall not affect the Vendor's right of recourse against Nutrien for payment of the Price where Nutrien has agreed to act as a Del Credere agent.

Interest

43. If any money payable by a Customer to Nutrien pursuant to these terms and conditions, is not paid to Nutrien on the due date for payment, such money will bear interest from the due date until the actual date of payment at the rate equal to 18% per annum.

PRIVACY

44. Each Customer consents to Nutrien collecting, using and disclosing its Customer personal information in connection with the 2024 Nutrien Northern Performance Sale, as described in Nutrien's privacy policy as amended from time to time and available on its website - <https://www.nutrienagolutions.com.au/sites/default/files/2022-10/documents/Global%20Privacy%20Policy.pdf>.

45. Disclosure to Government Agencies

Each Customer authorises Nutrien to disclose information relating to the Customer including personal information to any Government Agency in response to a request from that Government Agency. Nutrien may also disclose information relating to Customers including personal information to the police, other enforcement authorities or Government Agencies regarding suspected unlawful activity or misconduct, whether directly or indirectly related to the Customer's use of our services at, or participation in, the 2024 Nutrien Northern Performance Sale. For example, where we have reason to suspect fraudulent activity or an infringement of animal welfare legislation.

ANTI-MONEY LAUNDERING AND SANCTIONS

46. Nutrien may delay, block or refuse to process any payment or other transaction without incurring any liability if Nutrien knows or reasonably suspects that the transaction or the application of its proceeds will:
 - a) breach, or cause Nutrien to breach, any applicable laws or regulations of any jurisdiction (including any sanctions); or
 - b) allow the imposition of any penalty on Nutrien or its associated entities (having the meaning given to it in the *Corporations Act 2001* (Cth)) (**Associated Entities**) under any such law or regulation,including where the transaction or the application of its proceeds involves any entity or activity the subject of any applicable sanctions of any jurisdiction binding on Nutrien or its Associated Entities, or the direct or indirect proceeds of unlawful activity.
47. As soon as practicable after Nutrien becomes aware that it will delay, block or refuse to process a transaction under clause 46, it will notify the relevant Vendor and Buyer and consult in good faith but in each case only to the extent that Nutrien determines it is legally permitted to do so. In making that determination Nutrien shall act reasonably.
48. Customers shall promptly advise Nutrien if it is selling or purchasing (and entering into any Contract of Sale) in the capacity as agent and promptly supply, or procure the supply of, such information as may be reasonably requested by Nutrien from time to time in relation to any principal for which the Customer may be acting.
49. Each Customer undertakes to exercise its rights and perform its obligations under these terms and conditions in accordance with all applicable laws or regulations relating to anti-money laundering, counter-terrorism financing or sanctions.

GOVERNING LAW

50. These terms and conditions are governed by the laws of the State of Queensland in Australia.
51. The parties agree to submit to the non-exclusive jurisdiction of the courts of the State of Queensland and the courts of appeal from them.

MISCELLANEOUS

52. No party will be in breach of these terms and conditions for a failure or delay of performance of its obligations (other than an obligation of a party to pay Nutrien any Commission, Nomination Fee or other Fees or any other express obligation to pay Nutrien an amount under these terms and conditions) if caused by an event beyond its reasonable control, including without limitation, any fire, flood, natural disasters or other events which may result in the postponement or cancellation of the 2024 Nutrien Northern Performance Sale, except that nothing in this clause affects a party's liability in connection with a Contract of Sale.
53. A party shall not waive a right, power or remedy if it fails to exercise or delays in exercise the right, power or remedy. A single or partial exercise of a right, power or remedy does not prevent another or further exercise of that or another power or remedy. A waiver of a right, power or remedy must be in writing and signed by the party giving the waiver.
54. Neither party may assign their rights and obligations under these terms and conditions without the prior written consent of the other party.

55. A rule of construction does not apply to the disadvantage of a party simply because that party was responsible for the preparation of these terms and conditions or any part thereof.
56. If any part of these terms and conditions are void or unenforceable, that part must be read down to the extent necessary to preserve its operation. If it cannot be read down, it must be severed and the balance remains enforceable.