**SYNDICATE AGREEMENT**

1. **Formation**

A syndicate is being formed by [***Name of Trainer***] (the “**Syndicate Manager**”) under the New Zealand Thoroughbred Racing Inc. (“**NZTR**”) Bloodstock Syndication Code of Practice (“**COP**”), as set out in the attached Disclosure Statement (the “**Syndicate**”). [The Syndicate is to be known as the [ ] Syndicate.]

1. **Object**

The object of the Syndicate is to purchase and race the thoroughbred horse described in the Disclosure Statement (the **Horse**). The Horse will be named by a simple majority vote of the members of the Syndicate and will race in the stable colours of the Syndicate Manager.

1. **Share**

The total number of shares in the Syndicate being offered (each a “**Share**”), and the percentage interest that each Share confers in the Syndicate and its assets (including the Horse), are set out in the Disclosure Statement.

1. **Binding Agreement**
   1. Each person who signs, and sends to the Syndicate Manager, the Applicant Acknowledgement in the Disclosure Statement agrees:
      1. subject to clause 6 of this Agreement, to become a member of the Syndicate (a “**Shareholder**”); and
      2. to be bound by, and comply with, the terms of this Agreement and the Disclosure Document (together, the “**Syndicate Agreement**”); and
      3. that the Syndicate Agreement governs the operation and management of the Syndicate, the relationship between each Shareholder and the relationship between the Shareholders and the Syndicate Manager.
   2. The Syndicate Manager agrees to be bound by and to comply with the terms of the Syndicate Agreement
2. **Signing this Agreement**

This Agreement is deemed to be signed by a Shareholder if that Shareholder has:

* 1. signed the Applicant Acknowledgement in the Disclosure Statement and sent the signed Acknowledgement to the Syndicate Manager; or
  2. completed or ticked the relevant box on an online form confirming that the Shareholder has received and read this Agreement and the Disclosure Statement.

1. **Eligibility**

Before a person’s name can be recorded as a Shareholder in the register of Shareholders for the Syndicate, they must:

* 1. sign this Agreement in accordance with clause 5; and
  2. make payment in full to the Syndicate Manager for the number of Shares being purchased by them; and
  3. complete, sign and send to the Syndicate Manager a declaration that they are at least 18 years old, are not (for any reason) prohibited from owning a racehorse or from being admitted to a racecourse and are not a person to whom Rule 411(b) of the Rules of Racing applies.

1. **Authorised Representative and Racing Manager**

The Syndicate Manager will be the authorised representative of the Syndicate and the Racing Manager of the Horse under the Rules of racing and is authorised (amongst other things) to:

* 1. register the Syndicate and the Horse with NZTR; and
  2. sign and execute on behalf of the Syndicate and/or any Shareholder any form or document required by NZTR concerning the Horse or a Shareholder’s interest in it.

1. **Removal of Syndicate Manager**

Shareholders do not have the right or power to remove the Syndicate Manager. The Syndicate Manager may only be removed, and another person appointed to act in their place, by NZTR on any of the grounds listed in clause 18.4 of the COP. (This provision is inserted for the benefit of NZTR and its Board and is enforceable by either or both in terms of the Contracts (Privacy) Act 1982).

1. **Trainer**
   1. The Syndicate Manager is to be the trainer of the Horse and is entitled, as trainer:
      1. to be paid their usual and customary charges as a trainer and to be reimbursed for all costs and expenses reasonably incurred by them for, or in respect of, the Syndicate or the Horse; and
      2. to be paid, on the sale of the Horse, an amount equal to 10% (plus GST) of its improved value, being the difference between the original purchase price and the final sale price of the Horse if, and provided that, the final sale price exceeds the original purchase price.
   2. The Shareholders do not have the right or power take the horse from the Syndicate Manager and place it with another trainer for training nor to remove the Syndicate Manager from the role of Racing Manager of the Horse.
2. **Duties and Powers** 
   1. The duties and powers of the Syndicate Manager include:
      1. Opening and operating a separate bank account for the Syndicate;
      2. Holding all monies received from applicants for Shares in trust pending the issue of Shares to them, as required by the COP;
      3. The administration of the Syndicate (including accounting and financial administration and management, and ensuring that complete and proper records of the activities and affairs of the Syndicate are kept) and reporting to Shareholders regularly on the financial position of the Syndicate;
      4. The management of the Horse with regard to its general care, racing, and training;
      5. Meeting, on behalf of the Syndicate, all fees, costs and expenses properly incurred in respect of the Syndicate and the Horse including breaking in, pre-training, training, agistment, veterinary and other care, shoeing, insurance, gear, nominations, acceptances, track fees, jockey’s fees, transport, management, accounting, and record-keeping;
      6. The sole right to negotiate and complete the sale of the Horse on behalf of the Syndicate;
      7. Implementing decisions regarding the Horse or the Syndicate validly made by Shareholders under or in accordance with this Agreement;
      8. Liaising with Shareholders in all matters concerning the wellbeing, training and racing of the Horse and maintaining, for that purpose, an up-to-date communication service to inform Shareholders of the details of any jumpout, trial or race that the Horse is to participate in and its performance in the same;
      9. Organising any meetings and/or votes of Shareholders required under this Agreement; and
      10. Maintaining a register of Shareholders that contains the names and addresses of all the Shareholders and the number of Shares held by each of them.
   2. The Syndicate Manager may delegate any of their powers and duties to any person but will remain responsible for the performance of any such delegated power or duty.
   3. The Syndicate Manager must, in conducting the affairs of the Syndicate, act in good faith in what they believe to be the best interests of the Shareholders.
   4. The Syndicate Manager will not be liable for a loss incurred by the Syndicate other than losses resulting from the Syndicate Manager’s dishonesty or a deliberate breach of the Syndicate Agreement by the Syndicate Manager.
3. **Decisions regarding the Horse or the Syndicate.**
   1. Subject to paragraph (b) of this clause, all decisions regarding the day-to-day care and well-being of the Horse and its training and racing program (including when and where the Horse will race, and when and where it will spell) will be made by the Syndicate Manager in what they believe to be the best interests of the Horse and its well-being.
   2. A decision on whether the Horse should:
      1. race in another country will be made by a simple majority vote of the Shareholders; or
      2. be retired and/or sold will be made by a 75% majority vote of the Shareholders,

after taking into account the advice and recommendations of the Syndicate Manager.

* 1. If Shareholders holding Shares that carry at least 20% of the votes able to be cast request the Syndicate Manager, in writing, to hold a vote on whether to retire and/or sell the Horse, the Syndicate Manager must organise a vote by Shareholders on the proposal as soon as is reasonably practicable. The proposal will be passed and be binding on the Syndicate Manager if a 75% majority of the votes cast are in favour of it.
  2. If a vote on whether or not the Horse should be retired and/or sold is not passed but a significant number of Shareholders voted in favour of retirement and/or sale, the Syndicate Manager may, in their discretion, elect to terminate the Syndicate by notice to the Shareholders if, in their view, the Syndicate is no longer viable or it is in the best interest of Shareholders for the horse to be sold, in which case clause 17 will apply.
  3. If a vote of Shareholders is required under this clause (or otherwise under this Agreement), the vote will be conducted by the Syndicate Manager by way of email, with each Shareholder being asked to consider the relevant proposal and to vote on it by way of return email. Each Shareholder will have such number of votes on a proposal as is equal to their percentage shareholding in the Syndicate. The Syndicate Manager must ensure that Shareholders are provided with sufficient information on a proposal on which they are being asked to vote so as to enable them to make a fully informed decision on the relevant proposal.
  4. All decisions made under, and in accordance with, the Syndicate Agreement by:
     1. the Syndicate Manager are binding on all Shareholders; and
     2. the Shareholders at a meeting or by vote are binding on all Shareholders and the Syndicate Manager.

1. **Payments by Shareholders**
   * + - 1. **Initial Payment**: The initial amount payable for a Share is set out in the Disclosure Statement, which amount includes the purchase price of the Horse.
         2. **Subsequent Payments:** Each Shareholder will be invoiced by the Syndicate Manager, on a monthly basis, for their share of all costs and expenses incurred in respect of the Syndicate and the Horse including, for example, the Syndicate Manager’s standard training fees and associated charges, agistment fees, track fees, blacksmith costs, vet fees and other horse treatment costs, gear costs, NZTR registration and naming fees, racing and trialling costs, and transport costs.
         3. All invoices issued by the Syndicate Manager must be paid by Shareholders in accordance with the Syndicate Manager’s standard terms and conditions and if not paid by the due date will bear interest at the rate charged by the Syndicate Manager until paid in full.
         4. Any amounts payable by a Shareholder or former Shareholder that are not paid on the due date are recoverable from the Shareholder or former Shareholder by the Syndicate Manager.
2. **Insurance**
   1. The Horse will initially be insured by the Syndicate Manager against death, in accordance with standard industry practice, for (and at the cost of) Shareholders for a period of one year for a sum equal to the purchase price.
   2. If, in the reasonable opinion of the Syndicate Manager, the value of the Horse has increased or decreased significantly from the sum for which it is insured, they may increase or decrease the sum for which it is insured to such other amount as the Syndicate Manager reasonably considers to be appropriate.
   3. Insurance of the Horse after the expiry of the insurance policy referred to in paragraph (a) of this clause will be at the discretion and cost of each Shareholder.
3. **Stake Money and Payments to Shareholders** 
   1. Stake money won by the Horse in New Zealand is subject to a deduction of 16% under the Rules of Racing, being 10% to the registered trainer (ie the Syndicate Manager), 5% to the jockey and 1% to Equine Welfare. All stake money won by the Horse, after these deductions have been made, will be paid to a separate bank account opened and operated by the Syndicate Manager for the Syndicate.
   2. Subject to paragraphs (c) and (d) of this clause and the establishment of a travel fund as provided for in clause 15, all money received by the Syndicate Manager in respect of the Horse by way of prize money, bonuses or otherwise will, after meeting costs and expenses incurred in respect of the Horse or the Syndicate, be distributed by the Syndicate Manager to Shareholders in accordance with their Shares in the Syndicate within 14 days of the date on which that money is received by the Syndicate Manager.
   3. The Syndicate Manager is entitled to set-off against any amount payable to a Shareholder any amounts owed by the Shareholder to the Syndicate or the Syndicate Manager. This right of set-off applies despite the bankruptcy, receivership or liquidation of a Shareholder.
   4. The Syndicate Manager is not required to make a distribution to Shareholders under this clause unless the amount to be distributed in respect of each Share is at least $500 (or such lesser amount as the Syndicate Manager may determine in their discretion) or it is a final distribution following the termination of the Syndicate.
4. **Travel Fund** 
   1. Any amount received by the Syndicate Manager in respect of the Horse by way of stake money, bonuses or otherwise may be retained by the Syndicate Manager to establish and maintain a contingency fund of up to $5,000 to cover future extraordinary travel expenses relating to racing the Horse outside the island in which it is trained and, subject to approval by Shareholders by a simple majority vote, a fund of an amount determined by the Syndicate Manager to cover travel expenses for the Horse to race in another country.
   2. If, at any time following the establishment of a travel fund, the Syndicate Manager determines that the travel fund will not be required, the Syndicate Manager may, in their discretion, abolish the travel fund and distribute the amount in the fund to Shareholders in proportion to their Shares in the Syndicate.
5. **Trophies and Awards**

Any trophies or awards won by the Horse that the Syndicate Manager determines, in their sole discretion, to be suitable for allocation to Shareholders will be allocated to one or more Shareholders in a manner determined by the Syndicate Manager in their sole discretion. Shareholders can obtain replicas of trophies at their own expense.

1. **Sale of the Horse**
   1. If a decision is made under this Agreement to sell the Horse or the Syndicate Manager has terminated the Syndicate under clause 11(d), the Syndicate Manager is to arrange for the Horse to be offered for sale for the best price reasonably obtainable provided that a Shareholder or Shareholders may offer to buy the Horse for its market value, being the average of two valuations of the Horse provided by two independent bloodstock valuers or agents appointed for that purpose by the Syndicate Manager. If the Horse is not able to be sold within two months of the date on which the decision was made to sell the Horse or the Syndicate was terminated, the Syndicate Manager may give the Horse away on such terms and basis as they think reasonably appropriate. The Syndicate Manager may extend the two month sale period if there is a public auction within a reasonable period of time after expiry of the two month period that, in their opinion, would be suitable for the sale of the horse.
   2. The proceeds, if any, from the sale of the Horse (after deducting the costs of sale including commissions and the amount, if any, payable to the Syndicate Manager under clause 9 (a) (ii)) will be paid to Shareholders in proportion to their Shares in the Syndicate provided that the Syndicate Manager may deduct from the amount payable to a particular Shareholder, any amounts owed by that Shareholder to the Syndicate or the Syndicate Manager.
2. **Transfer of Share**
   1. A Shareholder must not mortgage, charge or encumber, in any way, their Share in the Syndicate or their interest in the Horse.
   2. If a Shareholder wishes to sell a Share in the Syndicate:
      1. They must give written notice to the Syndicate Manager of the price (the “**Offer Price**”) at which they are willing to sell the Share; and
      2. The Share must be offered for sale by the Syndicate Manager to the other Shareholders at the Offer Price. If more than one Shareholder wishes to purchase the Share, the Share will be tendered for sale amongst those Shareholders; and
      3. If within 10 days of the Share being offered for sale to Shareholders under this clause, no Shareholder is willing to purchase it, the Share may be sold by the selling Shareholder to any purchaser at a price that is not less than the Offer Price provided that:
         1. the person to whom the Share is proposed to be sold meets the eligibility requirements set out in clause 6 and agrees to be bound and to comply with the terms of the Syndicate Agreement; and
         2. the Syndicate Manager approves the sale at their sole discretion.
   3. A Shareholder may sell or transfer a Share without having to offer it to the other Shareholders first if the Shareholder and transferee are associated persons within the meaning of Subpart YB of the Income Tax Act 2007 [**NOT CHECKED**] or any statutory modification of that Subpart.
3. **Termination**
   * + - 1. The Syndicate will terminate on the disposal (including on the expiry of lease) or death of the Horse or on any other date determined by the Shareholders by a 75% majority vote.
   1. The Syndicate will not terminate on the death of a Shareholder. The Share of a deceased Shareholder may be transferred by the deceased Shareholder’s personal representatives to the persons entitled to it under the deceased Shareholder’s will or intestacy provided they are eligible to be a Shareholder under clause 6 of this Agreement and agree to be bound and to comply with the terms of the Syndicate Agreement. If those persons are not eligible to be Shareholders or advise the Syndicate Manager that they do not wish to take over the deceased Shareholder’s Share, the Share will be dealt with by the Syndicate Manager as if a sale notice had been given in respect of it by the deceased Shareholder under clause 18(b) at a price equal to its Fair Value (see paragraph (d) of this clause). The net proceeds (if any) of a sale of the Share under this paragraph will be paid by the Syndicate Manager to the personal representatives of the deceased Shareholder after deducting the costs of the sale process and any amounts owed by the deceased Shareholder, or their personal representatives, to the Syndicate or the Syndicate Manager in respect of the deceased Shareholder’s Share in the Syndicate or the Horse. The deceased Shareholder’s personal representatives will be liable to pay to the Syndicate Manager all amounts payable in respect of the deceased Shareholder’s Share in the Syndicate or the Horse until such time as the Share has been sold or transferred under this paragraph.
   2. The Syndicate will not terminate on the bankruptcy or insolvency of a Shareholder (in the case of an individual) or the winding up or liquidation of a Shareholder (in the case of a company or other body corporate or entity). On the happening of such an event, the Share of the relevant Shareholder will be dealt with by the Syndicate Manager as if a sale notice had been given in respect of it by the affected Shareholder under clause 18 (b) at a price equal to its Fair Value (see paragraph (d) of this clause). The net proceeds of a sale of the Share will be paid by the Syndicate Manager to the person authorised by law to receive them after deducting the costs of the sale process and any amounts owed by the relevant Shareholder to the Syndicate or the Syndicate Manager in respect of their Share in the Syndicate or the Horse.
   3. The Fair Value of a Share in the Syndicate will be the relevant percentage of the fair market value of the Horse, as determined by an independent Bloodstock Valuer approved by NZTR and appointed for that purpose by the Syndicate Manager [plus the relevant percentage of the available funds in the Syndicate’s bank account as at the date of the event which triggered paragraph (b) or (c) of this clause, as the case may be**][Do we want/need this?].** The valuer appointed under this paragraph is to act as an expert.
   4. On termination of the Syndicate, the Syndicate Manager will endeavour to sell the Horse in accordance with clause 17 and the net proceeds of sale will be distributed to Shareholders (together with the available cash in the Syndicate’s bank account after meeting all costs and expenses incurred in respect of the Horse and the Syndicate ) in proportion to the number of Shares held by them provided that any amounts owed by the relevant Shareholder to the Syndicate or the Syndicate Manager in respect of their Share in the Syndicate or the Horse will be depicted by the Syndicate Manager.
   5. Notwithstanding the termination of the Syndicate, Shareholders and former Shareholders will remain liable to pay any amounts owed by them to the Syndicate or the Syndicate Manager in respect of their Share in the Syndicate or the Horse.
4. **Forfeiture of Shares**
   1. A Shareholder’s name will be removed from the register of Shareholders and the Shareholder will forfeit all rights as a member of the Syndicate if they:
      1. become a person to whom Rule 411(b) of the Rules of Racing applies or for any reason become prohibited from owning a racehorse or from being admitted to a racecourse; or
      2. fail to make any payment required to be made by them in respect of their Share in the Syndicate or the Horse or are otherwise in default of any of their obligations under the Syndicate Agreement and fail to make the relevant payment or remedy the default within 14 days of receiving written notice to do so from the Syndicate Manager.
   2. The Share of a Shareholder whose name has been removed from the register of Shareholders under this clause will be dealt with by the Syndicate Manager as if a sale notice had been given in respect of the Share by the affected Shareholder under clause 18(b) at a price equal to its Fair Value (see paragraph (d) of clause 18) [less 20%]**[??]**. If no-one is willing to acquire the forfeited Share, it will be treated as having been transferred to the other Shareholders in proportion to their existing Shares in the Syndicate, in which case the Syndicate will pay for the Share at its Fair Value (less the costs incurred in endeavouring to sell the forfeited Shares and any amounts owed by the relevant Shareholder to the Syndicate or the Syndicate Manager in respect of their Share in the Syndicate or the Horse) as soon as it can reasonably do so but in any event by no later than 12 months after the date on which the Shareholder’s name was removed from the register of Shareholders under this clause. ***[Are we happy with this approach?]***
   3. A Shareholder whose name has been removed from the register of Shareholders under this clause will remain liable for their share of all costs and expenses incurred in respect of the Syndicate or the Horse up to the date on which their name is removed from the register of Shareholders (including, for the avoidance of doubt, any costs and expenses reasonably incurred by the Syndicate or the Syndicate Manager in removing the Shareholder’s name from the register of Shareholders or in recovering any amounts owed by the Shareholder in respect of their Share in the Syndicate or the Horse).
5. **Amendment**

This Agreement may be amended or cancelled by agreement between the Syndicate Manager and Shareholders who hold, between them, not less than 75% of the Shares in the Syndicate provided that any amendment that detracts from a Shareholder’s rights under the Syndicate Agreement, or increases the liability of a Shareholder to make financial contributions to the Syndicate in excess of what could have been reasonably anticipated from the Disclosure Statement, requires the agreement of all Shareholders

1. **No Partnership**

Nothing in this Agreement is to be taken as constituting or evidencing a partnership between the Shareholders.

1. **Address for Service**

The address for service for each Shareholder is the address recorded against their name in the register of Shareholders or such other address as a Shareholder may from time to time advise the Syndicate Manager in writing.

1. **Complaints**

Any Shareholder who wishes to make a complaint about any matter relating to the Syndicate or its management, including any decision or action of the Syndicate Manager, should, in the first instance, raise their complaint directly with the Syndicate Manager or with the other Shareholders at a meeting called for that purpose by the Syndicate Manager at the request of the relevant Shareholder. If a Shareholder requests the Syndicate Manager to convene a meeting under the clause, the Syndicate Manager most convene the meeting as soon as is reasonably practicable and, in any event, withing 14 days of the request. The Syndicate Manager must immediately notify NZTR of any complaint relating to the Syndicate or its management that is of a serious nature.

1. **Dispute Resolution** 
   1. If a dispute arises between the parties in relation to the Syndicate Agreement or any matter arising out of it (including its interpretation or application), the dispute is to be referred for resolution to a consultant acceptable to the parties to the dispute.
   2. If the parties to a dispute are not able to agree on a consultant within 14 days of the dispute arising, any party to the dispute may request the CEO of NZTR to nominate an appropriate person or persons (having regard to the matters the subject of dispute) to determine the matters under dispute and the parties to the dispute agree to accept as consultant the person so nominated.
   3. The consultant who has been appointed or nominated to determine a dispute under this clause is to act as an expert and not as an arbitrator and their decision (including any decision as to costs) will be final and binding on the parties to the dispute. [**Are we happy with this approach? Should shareholders have the right to go to court?]**