



THE STALLION COMPANY

Eventing - Dressage - Jumping

TERMS & CONDITIONS SUPPLY OF SERVICES 2017 SEASON

These Terms and Conditions apply to the provision by The Stallion Company of the Services as defined below.

1. General

- 1.1. In these terms and conditions the following words and expressions shall except where the context otherwise requires have the following meanings:
Agreement means the agreement between the Customer and the Company for the supply of Services in accordance with these Conditions.
Booking Form means the Equine Semen booking form completed by the Customer.
Company means Miniboy Limited t/a The Stallion Company.
Conditions means these standard terms and conditions as may be amended or modified from time to time.
Customer means the purchaser of the Services from the Company.
Deposit means a payment of 33% of the Stud Fee.
Force Majeure shall have the meaning given to it in Clause 25.
Gestation Charge means 67% of the Stud Fee.
Live Foal Guarantee shall have the meaning given to it in Clause 12.
Marketing Material means any catalogues, pamphlets, price lists and advertising literature provided by the Company and including materials published on the Company's website.
parties means the Customer and the Company and party shall mean any one of them.
Semen means the equine semen collected on the Customer's behalf by the Company as part of the Services.
Services means sale and distribution of fresh, chilled and frozen equine semen.
Stallion means the stallion named in the Booking Form.
Stud Fee means the aggregate amount of the Deposit and Gestation Charge.

- 1.2. A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
1.3. A reference to a statute, statutory provision or subordinate legislation is a reference to it as it is in force as at the date of this agreement. A reference to a statute or statutory provision shall include all subordinate legislation made as at the date of this agreement under that statute or statutory provision.
1.4. Any words following the terms including, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms. Where the context permits, all and otherwise are illustrative and shall not limit the sense of the words preceding them.
1.5. A reference to writing or written shall include faxes and email.

2. Orders, Acknowledgements, Conditions and Variations

- 2.1. Although the Company may have given a detailed quotation or estimate either verbally or in writing, no Booking Form or request for provision of Services by the Company shall be binding on the Company unless and until it has been accepted in writing by the Company or the Services are provided by the Company pursuant to the Booking Form. All bookings are subject to availability and the Company reserve the right to refuse any booking in whole or in part.
2.2. These Conditions are incorporated in the Agreement and contain the entire agreement between the parties in relation to the Services which are the subject of the Agreement. In the case of any inconsistency between any letter or quotation incorporating or referring to these Conditions and any order, letter or form of contract sent by Customer, whatever may be their respective dates, the provisions of these Conditions shall prevail. In the event of the Company entering into the Agreement without the Customer having received a Booking Form written quotation or other letter or document incorporating or referring to these Conditions but in circumstances where the Customer has had prior notice of these Conditions then that agreement shall be subject to these Conditions.
2.3. This Conditions shall not be amended, modified, varied, supplemented or released except in writing (excluding electronic methods of writing) signed by each of the parties.
2.4. No representations or warranties made by or on behalf of the Company prior to the Agreement (whether verbally or in writing) shall form part of the Agreement. The Customer acknowledges that they have not relied on any statement, promise or representation made or given by or on behalf of the Company which is not set out in the Agreement.
2.5. These Conditions apply to the Agreement to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

3. Price

- 3.1. The price payable for the Services shall be the current rate applicable at the date of provision of the Services. The Company may, at its sole discretion, vary such rate at any time but shall endeavour to give Customers not less than one week prior notice of the new rate. If such increase is not acceptable to the Customer, the Customer must notify the Company in writing within two weeks of the date of the notice of price variation and the Company shall have the right (without limiting to any other rights or remedies provided by the Agreement or these Conditions) to terminate the Agreement by giving the Customer two weeks' written notice.
3.2. Any price set out in any quotation or estimate shall be considered to have been given solely for information and shall not constitute an obligation on the part of the Company that the Services will be provided at that price.
3.3. All prices are exclusive of any applicable Value Added Tax which will be charged at the rate applicable at the date of invoice.

4. Time of Performance

- 4.1. Whilst the Company will make every reasonable effort to provide the Services by any date or dates specified in the Agreement for provision of the Services such date or dates shall be estimates only and time for performance of the Services by the Company shall not be of the essence. Any failure by the Company to so provide by the due date or dates shall not constitute a breach of contract and the Company reserves the right to wholly or partly suspend provision of the Services.

5. Stallions

- 5.1. All Stallions used in the provision of the Services are owned, managed or agented by the Company.
5.2. Notwithstanding the provisions of clause 3.2, the Company may, from time to time, accept Semen from stallions other than those it owns, manages or agents.
5.3. The Company reserves the right, at any time, and on the giving of prior written notice to the Customer, to nominate another Stallion in the provision of the Services.

6. Mares

- 6.1. Semen for a maximum of three cycles is supplied per mare as part of the Services.
6.2. The Customer shall inform the Company in writing by 5pm on 1 October in that year, of the pregnancy status of the mare. The Company shall only accept non-gestation statements from registered veterinarians.
6.3. In the event that the Customer fails to inform the Company that a mare is not in foal by the time and date set in clause 6.2, the Gestation Charge shall automatically be debited from the Customer's bank card or deposited cheque. The Customer shall not be entitled to any refund.
6.4. Where full payment has been made by the Customer and the mare is found not to be in foal, the Company shall credit the full breeding fee to the Customer's account for the following breeding season.
6.5. If for any reason a mare becomes unsuitable for breeding, injured or dies after the deposit has been paid and a first insemination has occurred, the amount of the deposit will remain credited to the Customer's account for the following breeding season.
6.6. Notwithstanding the provisions of clause 6.4, where the credited deposit exceeds the Customer's account at the end of the breeding season referred to in clause 6.4, the Company reserves the right to retain such deposit.

7. Alternate Stallions

- 7.1. In the event that a mare is not in foal following three cycles, the Customer may choose another Stallion (the "Alternate Stallion").
7.2. Where the Alternate Stallion has the same or similar stud fee, no new Deposit shall be payable by the Customer. Where the Alternate Stallion has a higher stud fee, the difference between the original stud fee and the new stud fee shall be payable by the Customer. Where the Alternate Stallion stud fee is lower than the original Stallion stud fee, no refund shall be payable by the Company.

8. Semen

- 8.1. Semen provided as part of the Services is provided by the Company in fresh, chilled or frozen form. In the event that no fresh or chilled semen is available, frozen semen, may be provided by the Company following prior consultation with the Client, subject to availability.
8.2. In respect of frozen Semen the following rules apply:
8.2.1. Frozen Semen shall be available on a per-dose or per-straw basis. Only one dose of frozen Semen per mare cycle may be ordered. Advance payment in full by the Customer is required.
8.2.2. At the time of reservation the Customer shall provide the Company with bank card details or a cheque dated 1 October of the same year for payment of the Stud Fee. Where the details for the Company have not been received either of these details and the Customer has used Semen provided by the Company, the full breeding fee shall become immediately payable, and no live foal guarantee shall be given by the Company.
8.2.3. Birth-certificates in respect of the selected Stallion may be sent to the Customer on request.
8.3. Semen in fresh or frozen form may only be obtained once payment of the Deposit had been made and the completed non-gestation statement on the insemination certificate of the former dose of Semen has been returned.

9. Terms of Payment

- 9.1. Notwithstanding any other provision of these Conditions the Company reserves the right to invoice and require payment for Services in advance.
9.2. Unless otherwise agreed the price for the Services shall be paid in full in cleared funds to the Company prior to the removal of the Semen from any premises at which the Stallion is housed. The Company reserves the right not to release the Semen to the Customer until all monies due to the Company from the Customer have been paid in full.
9.3. Should the period of the Agreement exceed one calendar month, the Company reserves the right to request interim payments which must be made on receipt of an invoice and in any event before the end of the month referred to in the invoice.
9.4. If the Customer does not pay the whole or any part of the price on the due date then the Customer shall pay interest on the amount outstanding from the due date until the actual date of payment (whether before or after judgement) at the rate of 5% per annum over the base rate of the Bank of Ireland from time to time in force which shall accrue on a daily basis and which shall apply whether or not the Company exercises the right of sale under the Agreement.
9.5. So long as any payment due from the Customer to the Company is outstanding, whether under the same or any other Agreement or transaction between the Customer and the Company, the Company shall have a lien over any of the Customer's property in its possession and when this lien becomes exercisable by the Company, the following Conditions shall apply:
9.5.1. The Customer shall pay the Company fees and charges at the same rates as under the Agreement and if the Agreement has been terminated, the relevant rate at which such fees and charges will be payable by the Customer will be the rate which was payable immediately prior to termination.
9.5.2. The Customer shall not be entitled to withhold payment of any amount due to the Company by reason of any disputed claim by the Customer in connection with the Agreement nor shall the Customer be entitled to set off against any amount payable to the Company any amount which is not then due and payable by the Company or for which the Company disputes liability.
9.6. Invoices from the Company must be paid immediately upon receipt of the invoice. Payments can be made during office hours (9am - 5.30pm) at The Stallion Company, Broadmeadows Equestrian Centre, Bullstown, Ashbourne, Co. Meath via cash payment, bank cheque or credit card, Visa, or Mastercard.
9.7. In the event of a failure by the Customer to pay within the stated period of payment, the invoice amount will be increased by costs of summons and penalty interest, as well as any possible judicial and extrajudicial costs of collection.
9.8. Any payments which are refused, whether by cheque or bank/credit card, will be attract an administration charge of €150 (one hundred and fifty euro) plus VAT.

10. Deposits

- 10.1. The Deposit shall be payable prior to the first insemination. On payment of the Deposit, the Customer shall be committed to using the nominated Stallion unless the Company exercises its rights under Clause 5.3.
10.2. In the event that the Customer uses a stallion that is not owned, managed or agented by the Company in the same season on the same mare, the Deposit will be deemed forfeit and no refund shall be issued.

11. Stud Fees

- 11.1. The Stud Fee shall be paid as follows:
11.1.1. the Deposit must be paid prior to first insemination; and
11.1.2. the Gestation Charge is payable by 1 October of the same year if the mare is pregnant.
11.2. In the event that the Customer uses any Semen from Stallions owned, managed or agented by the Company without the prior written consent of the Company and payment of the Deposit, the full Stud Fee shall become immediately payable irrespective of the pregnancy status of the mare.

12. Live Foal Guarantee

- 12.1. The Live Foal Guarantee means that the Company commits to send/supply Semen in either fresh, chilled or frozen form to the Customer, until the mare is pregnant. Once confirmed pregnant on 1st October in the same year as insemination, and full payment has been received, no further Semen shall be supplied by the Company.
12.2. Where the mare is found to be in foal following the circumstances detailed in Clause 11.2, no live foal guarantee shall be given by the Company.

13. Service certificate

- 13.1. Where a mare has been inseminated, is in foal and the full Stud Fee has been received, the Company shall issue to the Customer a service certificate stating the last date of insemination.
13.2. The service certificate is essential for the notification and registration of the foal after birth in the following year.

14. Embryo Transplant

- 14.1. In the event that the Customer wants the mare to have an embryo flush, the Company must be notified upon first ordering Semen.
14.2. If no embryos/s are found, Semen (for a maximum of 3 cycles) may be ordered for the mare provided that a veterinary declaration from the embryo centre is submitted that confirms that the embryo flush after the previous insemination turned out negative.
14.3. If from one insemination more than one embryo is flushed, the advance will be charged as when the transplantation turns out positive at 45 days. Bank card details or a cheque will be taken at the time the additional embryos are taken, and the payment for the Deposit will be taken. Thereafter, the normal 1st October rules will apply.
14.4. The Gestation Charge shall become payable per successfully transplanted embryo if the mare is in foal by 1 October 2017.

- 14.5. The Customer shall provide the Company, before 1 October 2017, with a statement, written and signed by the veterinarian or the embryo transplantation centre, of the number of flushes and the number of (successfully) implanted embryos per mare. If the transplantation of the embryo was not successful, this will count as a statement of non-gestation.

15. Order Process and Dispatch

- 15.1. Semen can be ordered via:
• Telephone on +353 87 356 8539,
• Email Inland@thestallioncompany.com,
• Website www.thestallioncompany.com.
All orders made via email must be followed up by a call to confirm order.
15.2. Dispatch of Semen take place as follows:
15.2.1. Semen ordered before 9am, Monday to Friday will be delivered by 10am the next day; and
15.2.2. Semen can order on Saturdays, Sundays and Public Holidays before 10am. It is not possible to dispatch Semen on these days. Customers may collect Semen:
• on Saturdays between 10am and 12pm; and/or
• on Sundays and on Public Holidays only after consultation by telephone.

16. Packaging/containers

- 16.1. Fresh chilled Semen is delivered or supplied in an appropriate transport container (the "Fresh Container") which at all times remains the property of the Company. A refundable deposit of €50 (fifty euro) must be paid for the Fresh Container prior to dispatch.
16.2. The Fresh Container must be returned to the Company within 7 calendar days whereby the deposit paid will be transferred to the Customer's account to be settled or paid back at the end of the season if the Fresh Container has been returned in time.
16.3. Frozen Semen will be delivered in an appropriate transport container (the "Frozen Container") which at all times remains the property of the Company. A refundable deposit of €50 (fifty euro) must be paid for the Frozen Container prior to dispatch.
16.4. The Frozen Container must be returned to the Company within 7 calendar days whereby the deposit paid will be transferred to the Customer's account to be settled or paid back at the end of the season if the Frozen Container has been returned in time.
16.5. A penalty of €25 (twenty five euro) per day is charged on each Fresh and Frozen Container from the eighth calendar day after delivery of such container. The return date always being the date of the Customer's business address.
16.6. For orders outside of Ireland, all transport costs must be paid by the Customer before shipping.

17. Health certificates

- 17.1. For orders abroad the Company takes care of the required health certificates.

18. Suspension and Termination

- 18.1. If the Customer fails to make any payment when it becomes due (either under the Agreement or under any other agreement or transaction between the Customer and the Company) or if the Customer commits any other breach of the Agreement or fails to remedy the same within seven days of receiving the Company's demand in writing as to do or refrain from doing any act in breach of the Agreement or to interfere with the Company's performance of the Agreement or any distress or execution is levied upon any of the Company's goods or property or if the Company has reason to believe that any of the events mentioned above is about to occur in relation to the Customer and notify the Customer accordingly, the Company may:
18.1.1. suspend provision of the Services;
18.1.2. hold the balance of any monies or other property of the Customer in the Company's possession in respect of Services carried out or to be carried out by the Company for the Customer for the general balance of account for the time being owing to the Company by the Customer; and/or
18.1.3. terminate the Agreement forthwith and, if the Services or any part of them have been provided but not paid for, the price shall become immediately due and payable by the Customer as to do or refrain from doing any act in breach of the Agreement or to interfere with the Company's rights to any unpaid price for Services provided under the Agreement and to damages for loss (both direct and consequential) suffered in consequence of such termination.

- 18.2. The Company may terminate the Agreement at any time upon not less than one month's notice in writing to the Customer and the Customer may terminate the Contract at any time by giving not less than one month's notice (or such shorter period or notice as the Company may in the Company's absolute discretion agree to accept) in writing to the Company. Such termination shall not relieve the Customer of the obligation to pay to the Company all charges accrued under the Agreement in respect of Services performed prior to the date of termination and so that the Company shall have a lien as provided in Clauses 9.5 and 18.1.2. The Company shall within 10 working days after the date of termination refer to the Customer any payment made by the Customer under the Agreement representing a prepayment for Services not yet performed prior to the date of termination but after deduction of any amount owing to the Company by the Customer whether or not under the Agreement.
18.3. In the event that the Company is prevented from completing the Agreement either wholly or in part in accordance with the terms thereof for any reason whatsoever beyond the Company's reasonable control including but not limited to a Force Majeure as defined in Clause 26 below then further performance of the Agreement shall be suspended for the period during which the Company is so prevented provided that in the event of the Agreement being suspended for a continuous period of more than three months then either party may give the other notice in writing to terminate the Agreement forthwith and in such circumstances the Customer shall pay for all Services provided to the date of such termination in accordance with these Conditions. The Company shall be under no liability whatsoever to the Customer for any direct or consequential loss or damage suffered by the Customer as a result of the Company's inability to perform the Company's obligation under the Agreement or the Conditions in these circumstances.
18.4. If the Company is prevented from providing Services in accordance with the Agreement as a result of (a) delay or default on the Company's part or (b) any other reason beyond the Company's reasonable control and the Agreement is not terminated in accordance with the other provisions of these Conditions the Company shall be entitled to reschedule the date or dates for the provision of the Services for such time or times as the Company shall reasonably require taking into account the Company's commitments to third parties and in the event of (a) shall be entitled to make a reasonable charge in respect of losses or costs incurred by the Company by reason of provision of the Services being so prevented.

19. Customer's Obligations

- 19.1. The Customer shall comply with these Conditions.
19.2. The Customer shall keep and provide to the Company all such records and information as are relevant to the provision of the Services by the Company. Where the Customer is not the owner of the mare, the Customer must notify the Company in writing of that fact and warrant that the Customer has full authority to accept these Conditions on behalf of the actual owner or any other joint owner. Where the ownership of the mare changes during the term of the Agreement the Customer shall notify the Company immediately in writing of that fact and undertake to the Company to procure the acceptance by the new owner of these Conditions. The Customer agrees to indemnify the Company against any loss or damage suffered by the Company for breach of this warranty including any loss, damage or expenses incurred by the Company (including reasonably incurred legal fees) arising from any step or action taken by any person who owns or has an interest in the mare.
19.4. The Customer must co-operate with the Company in all matters relating to the Services.
19.5. Any failure on the Customer's part to comply with the obligations in this Clause 19 shall entitle the Company at the Company's discretion to refuse to provide the Services and the provisions of Clause 18.4 in respect of event (a) shall then apply.

20. Warranties and Limitation of Liability

- 20.1. The Company undertakes to use all reasonable care and skill in performance of the Services and to comply with relevant legislation and regulations for the time being in force applicable to the Company's performance of the Agreement and these Conditions. The Company reserves the right to make any changes to the Services which are necessary to comply with applicable law or safety requirement and if in the Company's reasonable opinion any such change in legislation or regulation results in the Company's performance of the Services becoming unduly onerous the Company shall be entitled to terminate the Agreement by giving the Customer notice in accordance so far as possible with Clause 18.2 above.
20.2. Notwithstanding the provisions of Clause 20.1, and having due regard to the inherent risks and uncertainties involved in all biological processes the Company do not guarantee or warrant that a particular outcome will occur as a result of our provision of the Services. In particular but without limitation the Company gives no warranty that any Semen collected will result in the recovery of any usable Semen or that insemination of a mare with such Semen will result in a pregnancy.
20.3. Except as set out in these Conditions all warranties, terms, conditions or undertakings whether express or implied by statute, common law or otherwise to the extent permitted by law, excluded from the Agreement.
20.4. The Company's accepts no liability for ill health, infertility, injury or loss of breeding potential of the Stallion as a result of the provision of the Services.
20.5. In the event that the Company cancels or fails to keep (otherwise than in the circumstances set out in Clause 19) an appointment for Services on any particular occasion the Company's liability shall be limited to the direct costs (if any) incurred by the Customer in the certification of the Stallion by a veterinary surgeon in preparation for the Services.
20.6. The Company may keep other horses and other animals at its business premises or any other premises at which the Stallion is housed and the Company shall not be responsible to the Customer for any loss which may result from the presence on those premises of any animal which has been or becomes infected with any disease or which has been or becomes a reactor to any health tests.
20.7. The Customer is strongly advised to effect insurance cover for any loss or damage occasioned during the transport of Semen. The Company will not arrange for the transport of Semen unless the Customer has confirmed their instructions in writing.
20.8. Time of delivery shall not be of the essence. Any time or date for delivery given by the Company or on its behalf is given in good faith, but is an estimate only.
20.9. The Customer will bear the cost of all transport (and any related insurance) of Semen.
20.10. The Customer must notify the Company as soon as the Customer becomes aware of any event which may give rise to a claim against the Company in respect of the provision of Services and if such notification is oral the Customer must confirm it in writing within 7 days. No claim in relation to the provision of Services shall be accepted by the Company unless notified to the Company by the Customer in accordance with these Conditions.

- 20.11. In no circumstances and notwithstanding any other provision of these Conditions shall the Company be liable to the Customer for any loss (whether direct or indirect) of profits, business, loss of contract, loss of use or anticipated savings or for any indirect or consequential loss or damage whatsoever.
20.12. No provision of these Conditions shall have effect or operate so as to exclude any liability of either party in respect of fraud or a fraudulent misrepresentation made by that party to the other or to restate or exclude any remedy which the other party may have in respect of such fraud or fraudulent misrepresentation.
20.13. By ordering and buying Semen and signing the Agreement, the Customer is deemed to have full knowledge and understanding of these Conditions and declares to fully agree with the Service and payment conditions and the Stud Fees.
20.14. Where a Customer uses any Semen from Stallions owned, managed or agented by the Company without the express written permission of the Company and without payment of the full fee set out in the Agreement and/or these Conditions shall be deemed to have committed a fraud and shall pay the Company a fine of €2,500 (ex. 20% VAT) in addition to the Stud Fee for the relevant Stallion.
20.15. The Customer shall be solely responsible for the ordering, transportation, arrival, payment and returning of the shipping container. The Company shall not be held responsible for any failure of delivery, quality of the Semen, condition of the shipping containers or the return of the shipping containers.

21. Assignment

- 21.1. The Customer shall not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Agreement or these Conditions without the prior written consent of the Company (such consent not to be unreasonably withheld or delayed).
21.2. The Company may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of the Company's rights or obligations under the Agreement or these Conditions.

22. Waiver

- 22.1. No waiver by the Company of any breach of any provision of the Agreement or these Conditions by the Customer shall be considered as a waiver of any subsequent breach of the same or any other provision and the Company shall not be prejudiced by any forbearance or indulgence granted by the Company to the Customer.

23. Marketing Materials

- 23.1. The Company undertakes to use all reasonable care and skill in the compilation of the Marketing Materials.
23.2. Notwithstanding the provisions of Clause 23.1, any figures, statements, descriptions, illustrations, photographs, drawings or any other matters contained in the Marketing Materials are not guaranteed to be accurate and are intended merely as guidance of products and services and shall not form part of the Agreement.

24. No Partnership or Agency

- 24.1. Nothing in the Agreement is intended to, or shall operate to, create a partnership between the parties, or to authorise either party to act as agent for the other, and neither party shall have authority to act in the name or behalf of the other or to bind the other in any way (including the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

25. Force Majeure

- 25.1. The Company shall have no liability to the Customer under the Agreement or these Conditions if the Company is prevented from or delayed in performing the Company's obligations under the Agreement or from carrying on its business by acts, events, omissions or accidents beyond its reasonable control, including strikes, lock-outs or other industrial disputes (whether involving its workforce or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or sub-contractors (a "Force Majeure").

26. Governing Law and Jurisdiction

- 26.1. The Agreement and these Conditions and any dispute arising out of or in connection with them or their subject matter or dispute (including non-contractual disputes or claims) ("Dispute") shall be governed by and construed in accordance with the laws of Ireland.
26.2. Each of the parties to the Agreement irrevocably agrees that the courts of Ireland shall have exclusive jurisdiction to settle any Dispute and, for such purposes, irrevocably submits to the exclusive jurisdiction of such courts. Any proceeding, suit or action arising out of or in connection with this Agreement shall therefore be brought in the courts of Ireland.