

## **ELITE EQUINE INTERNATIONAL BUYER AGREEMENT**

**THIS AGREEMENT** is entered into as of the Effective Date.

### **BETWEEN:**

- (1) Elite Equine International Limited, a company registered in England and Wales under number 06540599, whose registered office is at Dragon Court, Charter Alley, Tadley, Hants, RG26 5PU, England (“**E EI**”); and
- (2) **[INSERT FULL LEGAL NAME OF BUYER]** of **[INSERT ADDRESS OF BUYER]** (“**Buyer**”).

### **INTRODUCTION:**

- (A) E EI is a company that facilitates the sale and purchase of elite horses between people wishing to buy and sell Horses.
- (B) Buyer has viewed horses for sale on [www.elite-equine.com](http://www.elite-equine.com) (“**the Website**”) and wishes to take advantage of E EI's Services to assist in making a purchase of a Horse.
- (C) This Agreement confirms the terms and conditions upon which the parties agree to the relationship described above.

### **IT IS AGREED AS FOLLOWS :-**

#### **1. DEFINITIONS AND INTERPRETATION**

In this Agreement, unless the context requires otherwise:

- 1.1 "Agreement" means this contract between E EI and the Buyer, subject to these terms and conditions;  
"Buyer Connected Party" means any of the Buyer's principals, servants, agents or representatives, or any party associated or connected with the Buyer in any way, including any party who may ultimately purchase a Horse from a Seller who has benefitted from the Services provided to the Buyer by E EI pursuant to this Agreement;  
"Commission" means the fee payable to E EI under this Agreement as set out in clause 4.1.2;  
"Effective Date" means the date on which both parties have signed this Agreement, as indicated by the date of the last signature of a party set out on the signature page to this Agreement;  
"Horse" means the horse(s) advertised for sale on the Website by E EI;  
"Horse Purchase Agreement" means an agreement entered into by the Buyer or any Buyer Connected Party with the Seller or any Seller Connected Party for the purchase of any Horse;  
"Net Purchase Price" means the Purchase Price less the deduction made by E EI for (i) the fee set out in 4.1.1, (ii) the Commission, (iii) any sums that may be due to E EI from the Seller and (iv) any relevant taxes;  
"Purchase Price" means the price for which the Buyer has agreed to purchase the Horse;  
"Seller" means any person who owns or is connected to or is associated with a person that has advertised a Horse for sale on the Website;

"Seller Connected Party" means any of the Seller's principals, servants, agents or representatives, or any party associated or connected with the Seller in any way, including any party who may ultimately own a Horse (whether directly or indirectly) which has been displayed by EEI on the Website;

"Services" means the services set out in clause 3.4;

All other capitalised terms have the meanings assigned to them in this Agreement.

- 1.2 References to statutes or statutory provisions shall include those statutes or statutory provisions as amended, extended, consolidated, re-enacted or replaced from time to time and any orders, regulations, instruments or other subordinate legislation made under them;
- 1.3 References to any party shall, where relevant, be deemed to be references to, or to include, as appropriate and where permitted by this Agreement, its lawful successors, assigns and transferees;
- 1.4 Use of the singular is deemed to include the plural, use of any gender is deemed to include every gender and any reference to a person is deemed to include a corporation, a partnership and other body or entity and (in each case) vice versa;
- 1.5 The clause headings shall not affect interpretation.

## 2. COMMENCEMENT AND DURATION

- 2.1 The Agreement shall be formed on the Effective Date and shall continue until it is Terminated, hereunder provided for in clause 7.

## 3. OBLIGATIONS AND SERVICES

- 3.1 If the Buyer, whether on behalf of itself or a Buyer Connected Party, wishes to purchase or make enquiries about a Horse viewed on the Website, it shall contact EEI directly. EEI is not under any obligation to release the identity of the identity or contact details of the Seller unless this Agreement is fully executed on behalf of both parties. The Buyer should under no circumstances contact or attempt to contact the Seller directly without an executed Agreement in place with EEI.

- 3.2 If instructed by the Buyer, EEI shall notify Seller of the Buyer's interest in the relevant Horse. EEI does not act for the Buyer on an exclusive basis, and will notify the Seller of all requests for information, approaches to buy or offers received from other buyers for the relevant horse as well.

- 3.3 EEI can facilitate the purchase of a Horse by the Buyer through negotiating the Purchase Price and (amongst other things) organising overseas visits to inspect a Horse, including but not limited to the organisation of travel and accommodation for the Buyer, as may be agreed between EEI and the Buyer from time to time ("**the Services**").

- 3.4 The Buyer shall pay the Commission as provided for in clause 4.

## 4. PAYMENT

- 4.1 In consideration of the Services being provided by EEI and its obligations under clause 3, the Buyer agrees to:

Deleted: [HOW DO YOU INTEND TO MONITOR THIS? YOU SHOULD ONLY PROVIDE EEI CONTACT DETAILS ON THE WEBSITE – NO SELLER CONTACT DETAILS SHOULD BE POSTED OR GIVEN OUT]

Deleted: [YOUR WEBSITE OFFERS THIS SERVICE – IS THIS CORRECT? THIS MEANS THAT YOU CANNOT DESCRIBE YOURSELF AS IMPARTIAL TO SELLERS]

4.1.1 pay to EEI the flat fee of £500 per day plus all other costs and expenses incurred by EEI in the provision of the Services, irrespective of whether or not a Horse Purchase Agreement is reached;

4.1.2 pay to EEI the Commission of:

(a) 10% of the Purchase Price per Horse valued at up to €300,000 (Euros); or

(b) 7% of the Purchase Price per Horse valued at €300,001 (Euros) or more.

4.2 Unless otherwise agreed between the Buyer, the Seller and EEI, the Buyer shall pay (i) the Purchase Price due under the Horse Purchase Agreement direct to EEI, who in this capacity will act as the Seller's agent for receipt of funds and (ii) all sums due to EEI under this Agreement by way of Commission and other fees (and relevant taxes). EEI shall then make deductions of the sums due to it under this Agreement as well as any sums that may be due to it from the Buyer, and pay the Seller the Net Purchase Price.

4.3 All payments to be made by the Buyer under this Agreement shall be paid free and clear of any deductions, withholdings for, or on account of, tax, set-offs or counterclaims. If EEI is required to make any deduction or withholding by law before transferring monies to the Seller, the sum payable by the Buyer in respect of which such deduction or withholding is required to be made shall be increased to the extent necessary to ensure that, after making such deduction or withholding, EEI receives and retains (free from any liability in respect of any such deduction or withholding) a net sum equal to the sum it would have received had no such deduction or withholding been made or required to be made.

4.4 If the Buyer fails to make any payment due to EEI under this Agreement then, without limiting EEI's remedies under clause 6, EEI may charge the Buyer interest on the overdue amount at the rate of 4% per annum above Barclays Bank plc's base lending rate from time to time. Such interest shall accrue on a daily basis from the due date until the date of actual payment of the overdue amount, whether before or after judgment. The Buyer shall pay the interest immediately on demand by EEI. This clause shall not apply to payments that the Buyer contests in good faith, in relation to which EEI and the Buyer shall attempt to resolve all disputes as promptly as possible.

4.5 All payments to be made by the Buyer under this Agreement are stated exclusive of value added tax (if applicable), consumption tax or other sales tax or customs duty which shall, where applicable, be payable by the Buyer.

## 5. WARRANTIES, LIMITATION OF LIABILITY AND DISCLAIMER

5.1 The Buyer warrants that it has full authority to enter into this Agreement. It further warrants that the Commission payable to EEI shall be due and payable whether or not a Horse Purchase Agreement is entered into directly by the Buyer or by any Buyer Connected Party. The Buyer further warrants that if at any point it anticipates that the Horse Purchase Agreement will be entered into by a Buyer Connected Party rather than the Buyer itself, it shall notify EEI in writing, and procure that such Buyer Connected Party enters into an agreement (substantially similar to this Agreement) directly with EEI.

5.2 EEI shall use its reasonable endeavours to ensure the accuracy and validity of the

Deleted: [PLEASE CONFIRM THIS IS CORRECT AS THE WEBSITE STATES 301,000 EUROS, WHICH WE BELIEVE IS INCORRECT]. ¶  
¶ [WHO AGREES THE VALUATION OF THE HORSE? WILL YOU DO THIS IN ADVANCE WITH THE BUYER? OTHERWISE, IF THE VALUE IS LEFT TO BE AGREED BETWEEN SELLER AND BUYER, THE FIGURE COULD BE MANIPULATED TO ENSURE THAT A LOWER % COMMISSION IS PAID TO YOU]

information provided on the Website and all information obtained about Horses, and will require warranties regarding the accuracy and completeness of such information provided by the Seller. However in most cases EEI will not take steps to independently verify any such information. The Buyer relies on such information at its own risk and EEI shall not be responsible for and disclaims all liability in respect of any and all loss or damage howsoever caused as a result of any such inaccuracy, incompleteness or errors in such information.

- 5.3 EEI shall at no time be held to be entering into an agreement to sell a Horse to the Buyer. The Seller and the Buyer will contract separately and privately.
- 5.4 EEI shall not be liable to the Buyer for any loss of revenue, anticipated profits, business interruptions or loss of data (whether direct or indirect) or any indirect, incidental, consequential, punitive or special damages, arising out of or related to this Agreement (whether in contract, negligence or other tort, or in any other way), even if it has been advised of the possibility of such losses or damages. EEI's maximum liability under or pursuant to this Agreement shall not exceed £500.
- 5.5 While EEI shall use reasonable endeavours to ensure that the Website is available, EEI shall not be liable for any failure to perform this Agreement caused by any failure of any equipment or network not controlled by EEI, for any failure of the Internet or any failure resulting from Buyer's negligence and/or breach of any of its obligations under this Agreement. If the need arises, EEI may suspend access to the Website, or close it indefinitely. EEI accepts no liability for any loss or damage howsoever caused whilst this occurs.
- 5.6 Nothing in this Agreement acts to limit or affect EEI's liability for death or personal injury arising from its negligence, nor its liability for fraud or fraudulent misrepresentations made by it, nor any other liability which cannot be excluded or limited under applicable law.
- 5.7 Except as expressly stated in this Agreement, all warranties, conditions and other terms implied by statute or common law are excluded from the Agreement to the fullest extent permitted by law.

## **6. TERMINATION**

- 6.1 Either party may terminate this Agreement immediately upon written notice:
  - 6.1.1 if the other party commits a material breach of any of the terms of this Agreement and (in the case of a breach which is capable of remedy) fails to remedy the breach within 30 days of receipt of notice from the other party specifying the breach and requiring its remedy;
  - 6.1.2 if the other party has a receiver or administrative receiver appointed of it or over any part of its undertaking or assets or passes a resolution for winding up (otherwise than for the purpose of a bona fide scheme of solvent amalgamation or reconstruction) or a court of competent jurisdiction makes an order to that effect or if the other party enters into any voluntary arrangement with its creditors or becomes subject to an administration order, or undergoes any comparable procedure under the laws of any competent jurisdiction.
- 6.2 The Agreement will terminate on transfer of the Net Purchase Price to the Seller.

6.3 Upon termination of this Agreement for any reason, all rights and obligations of the parties under this Agreement shall automatically terminate except for such rights as have accrued prior to such termination and any obligations which expressly or by implication are intended to come into or continue in force on or after such termination.

## **7. NOTICES**

7.1 Except where specifically provided otherwise in this Agreement, all notices required to be given under this Agreement shall be in writing and shall be sent to the address of the recipient set out in this Agreement or such other address in England as the recipient may designate by notice given in accordance with this clause. Any notice may be delivered personally or by first class prepaid post or fax and shall be deemed to have been served, (a) if by hand, when delivered, (b) if by first class post, 48 hours after posting and, (c) if by fax, when dispatched, (together with a confirmation slip indicating successful transmission).

## **8. GENERAL**

8.1 This Agreement constitutes the entire terms and conditions relating to its subject matter and cancels and is in substitution for all previous statements of intent, agreements and arrangements (whether oral or in writing) relating to this subject matter between EEI and Buyer.

8.2 Any variation or amendment of any of the terms of this Agreement shall not be binding unless set out in writing, expressed to amend this Agreement and signed by or on behalf of each of the parties.

8.3 If any provision of this Agreement, or any part of any provision of this Agreement is held to be illegal, invalid or unenforceable the remaining provisions, or the remainder of the provision concerned, shall remain in effect.

8.4 The failure or delay in enforcing compliance with any term of this Agreement shall not be a waiver of that or any other term of this Agreement.

8.5 This Agreement shall be governed by English law and the parties submit to the exclusive jurisdiction of the English courts.

8.6 The parties are independent contractors and neither this Agreement, nor any terms and conditions contained herein, shall be construed as creating a partnership, joint venture, agency relationship or granting a franchise between them.

8.7 Neither party shall be held in breach of the Agreement or liable to the other for any delay or failure to perform its obligations by reason and to the extent and duration of any cause beyond its reasonable control (an "event of force majeure") .

8.8 The parties do not intend that this Agreement or any of its terms will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person who is not a party to this Agreement.

The parties' duly authorised representatives have signed below to indicate the parties' respective acceptance of the Agreement of the Agreement.

Elite Equine International Limited

**[INSERT NAME OF BUYER]**

Signature: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Signature: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_