

July 21.

Be-Ma-Re Superfund Pty Ltd and The Neubecker Trusts

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# AGISTMENT AGREEMENT

**THIS AGREEMENT** is made the date in Schedule 1

**BETWEEN** the party whose name and address is in Schedule 2

**AND** the party whose name and address is in Schedule 3

## INTRODUCTION

- A. The Owner is the registered owner of an estate in fee simple in the Property.
- B. The Grazier wishes to arrange for the agistment and grazing facilities in respect of Livestock for the Term.
- C. The parties have agreed for provision of such agistment and grazing facilities for the consideration and on the terms and conditions set out in this agreement.

SCHEDULE		
Schedule 1	Date	1/7/21
Schedule 2	Owner	Be-Ma-Re Superfund Pty Ltd.
Schedule 3	Grazier	The Neubecker Trust
Schedule 4	Commencement Date	01/07/2021
Schedule 5	Term	36 ( ) months - to 30/06/2024
Schedule 6	Livestock	Maximum 30 head of cattle \$4/head/week.
Schedule 7	Property	Being the whole of the land comprised in Lot on Title Reference
Schedule 8	Agistment Fees	\$0,000.00 plus GST per annum \$6240 p/ann.
Schedule 9	Payments	\$0,000.00 plus GST on ; \$6240 + GST due 30/6/22 \$0,000.00 plus GST on ; \$6240 + GST due 30/6/23 \$0,000.00 plus GST on ; and \$6240 + GST due 30/6/24 <del>\$0,000.00 plus GST on</del>

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## 1. DEFINITIONS

### 1.1 In this Agreement:

- (1) "Agreement" means this Agistment Agreement executed as a Deed;
- (2) "business hours" means between 9.00am and 5.00pm on any day not being a weekend or public holiday;
- (3) "claim" includes any claim or legal action.

### 1.2 Interpretation

- (1) Reference to:
  - (a) one gender includes each other gender;
  - (b) the singular includes the plural and the plural includes the singular;
  - (c) a person includes a body corporate;
  - (d) a party includes the party's executors, administrators, successors and permitted assigns;
  - (e) bankruptcy includes entering into a deed of assignment or deed of arrangement or a composition with creditors and in the case of a body corporate becoming an externally-administered body corporate under the Corporations Law;
  - (f) death includes the winding up, deregistration or dissolution of a corporation;
  - (g) documents, records and the like include information in electronic form; and
  - (h) a statute, regulation or provision of a statute or regulation ("**Statutory Provision**") includes:
    - (i) that Statutory Provision as amended or re-enacted from time to time; and
    - (ii) a statute, regulation or provision enacted in replacement of that Statutory Provision.
- (2) "Including" and similar expressions are not words of limitation.
- (3) Where a word or expression is given a particular meaning, other parts of speech and grammatical forms of that word or expression have a corresponding meaning.
- (4) Headings are for convenience only and do not form part of this Agreement or affect its interpretation.

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- (5) If an act must be done on a specified day which is not a Business Day, the act must be done instead on the next Business Day.

### 1.3 Parties

- (1) If a party consists of more than 1 person, this Agreement binds each of them separately and any 2 or more of them jointly.
- (2) A party which is a trustee is bound both personally and in its capacity as a trustee.

### 1.4 Schedules

Any term in bold type in the Schedule has the meaning attributed to it in the Schedule.

## 2. DURATION

- 2.1 This Agreement shall commence on the Commencement Date and shall remain in force for the Term.

## 3. GRANT OF LICENCE

- 3.1 The Grazier has the right to use the Property for grazing purposes in respect of the Livestock for the Term commencing on the Commencement Date.
- 3.2 The Grazier must pay to the Owner or as the Owner directs the Agistment Fees in respect of the Livestock whether or not the Grazier in fact is grazing that number of cattle. It is expressly agreed that the Agistment Fees are at a set rate for a set number of stock and that the Agistment Fees are not in any way limited or calculated in accordance with the number of livestock actually grazing on the Property at any time. The Agistment Fees must be paid by ~~quarterly~~ *annual* payments in advance as set out in the Payments.
- 3.3 The Grazier has the right to agistment and the right to enter upon the Property at any time without notice, and with or without animals or vehicles, for the purpose of:-
- (1) maintaining the Grazier's Livestock on the Property, and purposes incidental thereto; and
- (2) for the purposes of maintaining fences, water or works on the Property as provided in this Agreement.

## 4. GRANT NOT EXCLUSIVE

- 4.1 The Owner shall have the full and exclusive right to possession and occupation of the Property subject only to the right of agistment set out in this Agreement.

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**5. GRAZIER'S COVENANTS**

**5.1 The Grazier covenants with the Owner that the Grazier will:**

- (1) observe all practices of good animal husbandry in relation to the Livestock agisted on the Property and shall not permit excessive grazing of any paddock within the Property or the destruction or deterioration in any way of any such paddock and to generally preserve the interests of the Owner with regard to the maintenance for grazing purposes of the Property;
- (2) as and when required, sufficiently repair and maintain the fences on the Property in equivalent order condition and repair to their condition as at the Commencement Date;
- (3) remove the Livestock from the Property at the expiration of the Term;
- (4) at its own expense comply with all notices issued by any competent authority requiring any practice to be observed or work to be done on the Property occasioned by reason only of the grazing activity of the Grazier on the Property whether such notice or notices be served on the Owner or the Grazier provided that any such notices received by the Owner shall within a reasonable time after receipt by the Owner be forwarded pre-paid post to the Grazier;
- (5) indemnify and hold harmless and the Grazier indemnifies and holds harmless the Owner from and against all damages, sums of money, costs, charges, expenses, actions, claims and demands which may be sustained or suffered or recovered or made against the Owner, by the Grazier or by any workman employee servant or agent of the Grazier, for any injury the Grazier or any such workman employee servant or agent may sustain when using or entering upon the Property other than those arising from the Owner's negligence;
- (6) pay to the Owner upon demand and from time to time in addition to the Agistment Fees, any amount equal to any amount payable by the Owner in respect of any GST, tax, levy, excise, charge or duty imposed on the Owner by reason of the grazing activities of the Grazier carried out on the Property;
- (7) create and maintain fire breaks (including control burning) as and when reasonably required to prevent the Property from being burnt out and obtain such consents, permits and approvals required by the relevant authorities prior to doing so;
- (8) in the event of the Grazier continuing to agist Livestock on the Property after the expiration of the Term (with the Owner's consent), occupy the Property on the terms and conditions set out in this Deed on a month to month basis only;
- (9) maintain insurance for:

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- (a) public risk for at least \$10,000,000 (noting the respective interests of the Owner and the Grazier); and
  - (b) any risk reasonably required by the Owner.

5.2 The Grazier covenants with the Owner that the Grazier will not:-

- (1) bring or cause permit or suffer to be brought upon the Property any stock which are not the bona fide property of the Grazier; and
- (2) cut or in any way interfere with any scrub or timber on the Property.

## 6. MUTUAL COVENANTS

6.1 It is agreed and declared between the Grazier and the Owner:

- (1) that the Grazier has inspected the Property and the water thereon and acknowledges that he is satisfied that the water supply is sufficient for the Livestock to be agisted in accordance with this Agreement and it is agreed and declared that the Owner does not guarantee the quality or sufficiency of the grass or water for the Livestock;
- (2) that notwithstanding anything contained or implied in this Agreement, if:
  - (a) Agistment Fees or any part thereof are in arrears and unpaid for the period of seven (7) days after the due date for Payment whether legally demanded or not; or
  - (b) the Grazier shall neglect or fail to perform and observe any of the covenants conditions or agreements contained or implied in this agreement which on the part of the Grazier are to be performed and observed; or
  - (c) a sequestration order shall be made against the Grazier under the Bankruptcy Act 1966 (Cth); or
  - (d) the Grazier being a company shall go into liquidation whether voluntary or otherwise except for the purpose of reconstruction,

then the Owner may immediately, or at any time thereafter, terminate this Agreement and remove the Livestock on the Property from the Property in accordance with the rights available for impounding of stock not lawfully on a property under the Local Government Act or other legislation. The Grazier will then be and remain liable for the whole of the Agistment Fees, and any losses or costs suffered by the Owner pursuant to such termination;

- (3) the Grazier will pay:-

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- (a) one half (1/2) of the legal costs disbursements stamp duty and other expenses incurred by the Owner in connection with the preparation and completion of this Deed; and
    - (b) all costs and other expenses arising from the Grazier's default under this Deed,
  - (4) the Owner will pay the remaining half (1/2) of the legal costs and disbursements incurred by the Owner in connection with the preparation of this Deed;
  - (5) all covenants and agreements herein contained must be taken and construed to be made by and for the respective parties their successors and assigns;
  - (6) nothing in this Deed will be deemed to constitute this Deed as a lease or exclusive right to possession to the effect that the provisions of the Property Law Act will have no application whatsoever to the rights between the parties;
  - (7) the right of agistment created by this Deed must not be assigned by the Grazier.

## **7. CONSTRUCTION**

### **7.1 Reference to:**

- (1) a person includes:
  - (a) a corporation and government body; and
  - (b) the legal representatives, successors and assigns of that person;
- (2) month or monthly means calendar month or calendar monthly; and
- (3) a right includes a remedy, authority or power.

### **7.2 Plurals and Genders**

A word importing:

- (1) the singular includes the plural and vice versa; and
- (2) any gender includes all other genders.

### **7.3 Parties Bound Jointly and Individually**

If two or more persons are named as a party, any covenant or agreement made by or on behalf of that party binds them jointly and each of them individually.

### **7.4 Statutes and Regulations**

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References to statutes, regulations, ordinances or by-laws include all statutes, regulations, ordinances or by-laws amending, consolidating or replacing them.

#### **7.5 Covenants**

Every obligation undertaken by a party to this agreement will be deemed to be and be construed as a covenant by that person.

#### **7.6 Severability**

- (1) As far as possible all provisions of this agreement will be construed so as not to be invalid, illegal or unenforceable in any respect.
- (2) If any provision on its true interpretation is illegal, invalid or unenforceable, that provision will, as far as possible, be read down to the extent necessary to ensure that it is not illegal, invalid or unenforceable and so as to give it a valid operation of a particular character.
- (3) If any provision or part of it cannot be read down, that provision or part will be deemed to be void and severable and the remaining provisions of this agreement will not be affected or impaired.

#### **7.7 Whole Agreement**

- (1) The terms contained in this agreement comprise the whole agreement between the parties.
- (2) No further terms will be implied or arise between the parties under any collateral or other agreement made on or prior to execution of this agreement

#### **7.8 Headings**

- (1) Headings and the table of contents to this agreement have been inserted for guidance only and will not affect the construction of this agreement.
- (2) References to clauses, schedules and annexures will be construed as references to clauses of and schedules and annexures to this agreement.

#### **7.9 Organisations**

- (1) If any organisation has ceased to exist, reference to that organisation will be deemed to be reference to an organisation having substantially the same objects as the original organisation.
- (2) Reference to the president of an organisation will, in the absence of a president, be read as reference to the senior officer for the time being of the organisation or any other person fulfilling the duties of president.

#### **7.10 Notices**



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Any Notice or Demand given by one party to the other may be served in the manner provided in Section 347 of the Property Law Act 1974 (Qld).

**7.11 Governing Law and Jurisdiction**

This Agreement is governed by the laws of Queensland the parties submit to the non-exclusive jurisdiction of the Courts of that State.

**EXECUTED AS A DEED**

**SIGNED SEALED AND DELIVERED**

By *JM Meabecker* as Owner  
in the presence of:

|  
| *JM Meabecker*  
|

*Kerny Deighton* Principal, *Arundale State* *K. Deighton*  
.....  
Qualified witness  
(eg ~~Justice of the Peace/Commissioner for~~  
~~Declarations~~) *School*

**SIGNED SEALED AND DELIVERED**

By *Rex Neubecker*  
as Grazier in the presence of:

|  
| *R. N.*  
|

*Kerny Deighton* Principal, *Arundale State* *K. Deighton*  
.....  
Qualified witness  
(eg ~~Justice of the Peace/Commissioner for~~  
~~Declarations~~) *School*

Agistment paid by "The Neubecker Trust"  
to "Be-Ma-Re Pty Ltd"

- Up to and including 20/21 financial year as follows -

Agistment Rate - 30 head @ \$3/head/week	=	4680.00
Less Rates (paid by "The Neubecker Trust")	=	2189.54
Less Weed Control (x5 days/annum @ \$300/day)	=	1500.00
Less Agistment Paid	=	2000.00

Leaves Credit (in favour of Be-Ma-Re Pty Ltd) = - 1009.00

Due to an increase in agistment rates and -----  
In accordance with ATO requirements to conduct business and transactions "at arm's length" a formal Agistment Agreement has been signed (see attached) and from 01/07/21 will apply as follows -

The Neubecker Trust is to pay \$6240 /annum in advance  
(see agreement)

Be-Ma-Re Super to pay Rates/Insurance  
Weed Control - Yard repair  
costs as required.



