

## **RISK WARNING, WAIVER & INDEMNITY**

Dr Graham Tudge and Ms Margaret Aldred (trading as 'Ashford Park') of 'Ashford Park' 225 Split Rock Road, Beaconsfield Upper, Victoria ('Property') and their employees, agents and contractors (individually and together 'supplier'), warn the rider and the rider's parent/person in control of the rider that:

1. a horse is a large, heavy, herd animal, a creature of flight and can react without warning. It has highly developed senses of hearing, sight and smell, which can make its behaviour towards sounds, sudden movement, and unfamiliar objects, people or other animals, unpredictable and potentially harmful to the rider and any person nearby;
2. regardless of its size, weight or age, a horse can bite, bolt, buck, fall, jump, kick, pig-root, rear, roll, shy, slip, stumble, or stand on a person, while he/she is on or near it ('Risks'). The Risks increase in a variety of circumstances, including (but not limited to): horses ridden/handled close together; horse training; when other riders don't control their horses or breach rules; weather affected riding terrain, including fire and smoke; taking a horse into or along water; leading a horse onto or off a float or truck; using clippers; using stables/washbay/yards; and failure to wear a riding helmet and protective footwear, despite the Supplier's requirement that they be worn;
3. the following matters may be present or occur on the Property, or on land adjoining the Property, and can increase the Risks: sheep, lambs, cattle and horses and farm animals, alone or together; stallions and colts, alone or together; dogs on the loose; specific forms of wildlife eg kangaroos, snakes, wombats, ducks, wild birds; unusual species of farm or domestic animals eg llamas, donkeys; children; rabbit holes and warrens; vehicles, motorcycles, tractors, farm machinery and equipment, stationary or moving; thick bush; types of terrain eg slippery, rocky, steep, water logged; harsh or extreme weather conditions; wind blown matter eg litter, branches of trees; aircraft flying low overhead; paddock and arena fencing of various forms, including electric wiring; equipment and obstacles used in the training of horses for show jumping eg rails, poles and grids; wind blown plastic; and bushfires; and
4. because of the Risks, the rider will be exposed, by riding and/or handling a horse, to the possibility of death, serious personal injury or disability (including paralysis and brain injury) or lesser injury, even if he/she acts safely and wears an approved riding helmet and protective footwear but especially if no such helmet or footwear is worn.

The rider and the rider's parent/person in control of the rider agree with the Supplier, in return for the Supplier permitting the rider to participate in horse related activities ('Activities') on the Property from time to time, that:

5. the rider participates in the Activities at his/her own risk;
6. the Supplier will not be liable for the death of, or personal injury (as defined by s.32N Fair Trading Act 1999) to the rider, due to or arising out of:
  - (a) any breach of an implied warranty or condition under the general law that the Activities will be rendered with reasonable care and skill;
  - (b) breach of a guarantee under the Subdivision B of Division 1 of Part 3-2 of the Australian Consumer Law (Victoria) in relation to the Activities;
  - (c) negligence or fault on its part under the law; or
  - (d) materialisation of any of the Risks;

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7. they will not make any claim or legal action against the Supplier relating to any liability excluded by clause 6;
8. they will indemnify the Supplier against all losses, liabilities, damages and costs that it sustains or incurs by reason of any future legal claim or action by or on behalf of the rider or owner of the horse relating to the death of or personal injury to the rider or death of or harm to the rider's horse;
9. if any provision of this document is unenforceable or void by reason of any present or future law, it must be severed and the remainder construed and applied without it; and
10. the Supplier is not liable for death of or harm to the rider's horse or loss of or damage to any personal property in the possession, custody or control of the rider arising from breach of any implied condition or warranty under the Fair Trading Act 1999 or otherwise, however, if the Supplier is held liable, liability will be limited (at the option of the Supplier) to the amount of the payment of the cost of having the Activities supplied again or the repair of the property.

### **WARNING UNDER THE FAIR TRADING ACT 1999**

Under the Australian Consumer Law (Victoria), several statutory guarantees apply to the supply of certain goods and services. These guarantees mean that the supplier named on this form is required to ensure that the recreational services it supplies to you are-

- rendered with due care and skill; and
- as fit for the purpose for any purpose which you, either expressly or by implication, make known to the supplier; and
- might reasonably be expected to achieve any result you have made known to the supplier.

Under section 32N of the **Fair Trading Act 1999**, the supplier is entitled to ask you to agree that these statutory guarantees do not apply to you. If you sign this form, you will be agreeing that your rights to sue the supplier under the **Fair Trading Act 1999** if you are killed or injured because the services provided were not in accordance with these guarantees, are excluded, restricted or modified in the way set out in this form.

**NOTE:** The change to your rights, as set out in this form, does not apply if your death or injury is due to gross negligence on the supplier's part. **Gross negligence** is defined in the Fair Trading (Recreational Services) Regulations 2004.

**THE RIDER AND PARENT/PERSON IN CONTROL OF THE RIDER ACKNOWLEDGE AND AGREE THAT THEY HAVE READ THIS DOCUMENT AND THAT BY SIGNING IT, IMPORTANT LEGAL RIGHTS ARE GIVEN UP**

\_\_\_\_\_  
Rider's signature

\_\_\_\_\_  
Parent's/person in control's signature

\_\_\_\_\_  
Supplier's signature

\_\_\_\_\_  
Rider's name in letters

\_\_\_\_\_  
Parent's/person in control's name  
in block letters

Dated:

Rider's address: \_\_\_\_\_

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