

COACHING SERVICES DECLARATION

THIS IS AN IMPORTANT DOCUMENT AND YOU SHOULD READ IT CAREFULLY BEFORE SIGNING IT. UPON SIGNING THIS DECLARATION FORM, YOU ACKNOWLEDGE THAT YOU HAVE READ, UNDERSTOOD AND AGREE TO BE BOUND BY THE TERMS AND CONDITIONS (**TERMS**) IN IT.

YOU COVENANT AND WARRANT THAT YOU ARE EITHER 18 YEARS OF AGE OR OLDER OR THAT YOU HAVE AGREED TO THE TERMS IN THIS DECLARATION AS THE PARENT OR LEGAL GUARDIAN OF AN APPLICANT UNDER 18 YEARS OF AGE.

NOTE IF THE APPLICANT IS UNDER 18 YEARS OF AGE THESE TERMS MUST BE AGREED BY THE APPLICANT'S PARENT OR GUARDIAN. IN CONSIDERATION OF THE COACH PROVIDING SERVICES TO ME I ACKNOWLEDGE AND AGREE TO THE FOLLOWING:

Definitions

1. In These Terms:
 - (a) **Claim** means and includes any action, suit, proceeding, claim, demand, damage, penalty, cost or expense however arising including but not limited to negligence, BUT does NOT include a claim against the Coach by any person expressly entitled to make a claim under any relevant and applicable insurance policy.
 - (b) **Coach** means: _____
[INSERT DETAILS INCLUDING ABN and ADDRESS].
 - (c) **Equestrian Activities** means performing or participating in any capacity, including as a Member, in any activity authorised or recognised by Equestrian Australia (**EA**) or any of its Member Branches.
 - (d) **Recreational services** has the same meaning as per the relevant piece of Australia Consumer Law legislation (**ACL**). But, is generally defined as services that consist of participation in:
 - sporting activity or similar leisure-time pursuit; or
 - any other activity that involves a significant degree of physical exertion or risk and is undertaken for the purposes of recreation, enjoyment or leisure.

Declaration

2. I declare that I am not aware of any reason why I should not undertake Equestrian Activities.
3. I will be bound by and abide by the Constitution and Regulations of EA and its Member Branches. I shall participate in Equestrian Activities in a fair and sporting manner. I will comply with all reasonable directions of the Coach whilst I am undertaking Equestrian Activities under the Coach's supervision and/or direction.

Risk Warning

4. I acknowledge that Equestrian Activities are inherently dangerous and may involve risk. I recognise and understand that there are risks specifically associated with Equestrian Activities which include, but are not limited to:
 - falls from horses,
 - riding on uneven surfaces,
 - unexpected behaviour of horses
 - physical exertion and
 - changes in weather and environmental conditions
5. I acknowledge that accidents can and often do happen which may result in me being injured or even killed, or my property being damaged. Prior to undertaking any Equestrian Activities, I acknowledge that I

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have considered and am aware of all of the risks involved, including those risks associated with any health condition I may have.

6. By agreeing to these Terms, I acknowledge, agree, and understand that participation in recreational services provided by the Coach involving and/or including Equestrian Activities may involve risk. I agree and undertake any such risk voluntarily and at my own risk. I acknowledge that the assumption of risk and warning above constitutes a 'risk warning' in accordance with relevant legislation.

Waiver

7. I acknowledge that it is possible for a supplier of recreational services or recreational activities to ask me to agree that statutory guarantees under the ACL (being Schedule 2 to the *Competition and Consumer Act 2010 (Cth)*) do not apply to me (or a person for whom or on whose behalf I am acquiring the services or activities).
8. I acknowledge that by agreeing to these Terms, I am also agreeing that my rights (or the rights of a person for whom or on whose behalf I am acquiring the services) to sue the supplier of recreational services or recreational activities that I undertake because the services or recreational activities provided were not in accordance with the guarantees are excluded, restricted or modified as set out in **Schedule 1**.
9. To the extent of any liability arising, the liability of the Coach will, at the discretion of the Coach, be limited in the case of goods, to the replacement, repair or payment of the cost of replacing the goods and in the case of services, the resupply of the services or payment of the cost of having the services supplied again.

Medical Disclosure

10. I declare that I am medically and physically fit and able to participate in Equestrian Activities. I acknowledge that I must, and I agree that I will, disclose any pre-existing medical or other condition that may affect the risk that either I or any other person will suffer injury, loss or damage prior to any Equestrian Activities. If I am feeling unwell in any way, I will not attend any Equestrian Activity unless and until cleared to do so by a medical practitioner and if I do attend whilst feeling unwell, I may be directed to leave the Activity and if so directed will leave immediately.
11. I acknowledge that the Coach relies on information provided by me and that all such information is accurate and complete.
12. I agree to report any accidents, injuries, loss or damage I suffer during any Equestrian Activities to the Coach or other organiser or official before I leave any relevant venue.
13. I agree that the Coach may in its absolute discretion deny me eligibility to undertake any Equestrian Activity race if they consider I am not medically, mentally and physically fit and able to participate (or continue to participate) in Equestrian Activities without unreasonable risk to myself or others. The Coach is in no way liable if they choose not to exercise their discretion under this clause.
14. If a medical emergency occurs, I consent to the provision of any necessary medical treatment and will pay for any such medical treatment costs including transport by ambulance.

Safety

15. I understand and acknowledge the dangers associated with the consumption of alcohol or any mind-altering substance before or during any Equestrian Activity. I accept full responsibility for injury, loss or damage associated with the consumption of alcohol or any other mind-altering substance.
16. I will follow any rules set by the Coach in connection with any Equestrian Activities. In particular, I have been advised I need to wear an approved helmet and/or safety equipment as per any relevant technical regulations at all times during Equestrian Activities. If I fail to comply with the Coach's rules and/or directions, I will not be permitted to participate or to continue to participate in a relevant Equestrian Activity and if I am excluded, I may not be entitled to a refund.

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Release and indemnity

17. In consideration of the Coach providing services to me I, to the extent permitted by law:
- (a) release and will release the Coach from all Claims that I may have or may have had but for this release arising from or in connection with my participation in Equestrian Activities;
 - (b) release and indemnify the Coach against any Claim which may be made by me or on my behalf for or in respect of or arising out of my death whether caused by the negligence or breach of contract by the Coach or in any other manner whatsoever; and
 - (c) indemnify and will keep indemnified the Coach to the extent permitted by law in respect of any Claim by any person:
 - (i) arising as a result of or in connection with my membership or my participation in Equestrian Activities;
 - (ii) against the Coach in respect of any injury, loss or damage arising out of or in connection with my failure to comply with the Coach's rules and/or directions; save that the above releases and indemnities shall not apply to the extent that the loss, damage or injury that is the subject of the Claim is directly caused or contributed to by the gross negligence of the Coach.

Insurance

18. I acknowledge, understand and accept that my insurance arrangements are my responsibility and I will arrange coverage (including but not limited to specific personal accident coverage).

Bar to proceedings

19. I acknowledge and agree that these Terms gives rise to a contract between me and the Coach. I further acknowledge and agree that I will not commence any proceedings against the Coach until I have exhausted all avenues of appeal or inquiry available to me under EA rules framework. The Coach may plead this contract as a bar to proceedings now or in the future commenced by or on behalf of me or by any person claiming through me. I acknowledge that where I commence proceedings against the Coach, I:
- (a) will commence those proceedings in the courts of the jurisdiction in which any incident occurs;
 - (b) waive any right to object to the exercise of such jurisdiction;
 - (c) will, where I seek to commence proceedings in another jurisdiction from where any incident occurs, consent (if required by the Coach) to move those proceedings to the jurisdiction in which any incident occurs including consenting to any application made by the Coach to remove the proceedings to the jurisdiction in which any incident occurs;
 - (d) will pay the costs of any application made by the Coach under clause 19(c) and will consent to any application for security of costs made at any time by the Coach; and
 - (e) consent to paying the Coach's legal defence costs of the proceedings (on a solicitor client basis) where the Coach successfully defends the proceedings.

Miscellaneous

20. The governing law of these Terms is the law of Victoria (**Jurisdiction**). I irrevocably and unconditionally consent and submit to the jurisdiction of the courts of the Jurisdiction in which any incident occurs and waive any right to object to the exercise of such Jurisdiction.
21. These Terms (and the documents to which it refers) constitute the entire agreement between the parties and supersedes all other agreements, understandings, representations and negotiations in relation to Equestrian Activities.
22. To the extent that any of these Terms is void or unenforceable it is severable and does not affect the remaining provisions of the agreement.

SCHEDULE 1

For recreational services or activities provided throughout Australia:

For recreational services to which the Australian Consumer Law (ACL) (Commonwealth) applies:

By signing this form, I agree that the liability of the Coach in relation to recreational services (as that term is defined in the Competition and Consumer Act 2010 (Cth) and the ACL) for any:

- (a) death;
- (b) physical or mental injury (including the aggravation, acceleration or recurrence of such an injury);
- (c) the contraction, aggravation or acceleration of a disease;
- (d) the coming into existence, the aggravation, acceleration or recurrence of any other condition, circumstance, occurrence, activity, form of behaviour, course of conduct or state of affairs:
- (e) that is or may be harmful or disadvantageous to me or the community;
- (f) that may result in harm or disadvantage to me or the community, that may be suffered by me (or a person for whom or on whose behalf I am acquiring the services) resulting from the supply of recreational services or recreational activities; is excluded and the application of any express or implied term that any services will be provided with due care and skill is hereby excluded.

For recreational services or activities provided in NSW or WA:

For recreational services or recreational activities to which the ACL (NSW) and ACL (WA), applies:

By signing this form, I agree that the liability of the Coach in relation to recreational services (as that term is defined in the Competition and Consumer Act 2010 (Cth) and the Australian Consumer Law) and recreational activities (as that term is defined in the Civil Liability Act 2002 (NSW)) or Civil Liability Act 2002 (WA), as applicable) for any:

- (a) death;
- (b) physical or mental injury (including the aggravation, acceleration or recurrence of such an injury);
- (c) the contraction, aggravation or acceleration of a disease;
- (d) the coming into existence, the aggravation, acceleration or recurrence of any other condition, circumstance, occurrence, activity, form of behaviour, course of conduct or state of affairs that:
 - (i) is or may be harmful or disadvantageous to me or the community;
 - (ii) may result in harm or disadvantage to me or the community, that may be suffered by me (or a person for whom or on whose behalf I am acquiring the services) resulting from the supply of recreational services or recreational activities; is excluded and the application of any express or implied term that any services will be provided with due care and skill is hereby excluded.

For recreational services or activities provided in Victoria:

For recreational services to which the ACL (VIC) applies:

Warning under the Australian Consumer Law and Fair Trading Act 2012:

Under the ACL (Victoria), several statutory guarantees apply to the supply of certain goods and services. These guarantees mean that the suppliers named on this form, the Coach, are required to ensure that the recreational services supplied to you:

- (a) are rendered with due care and skill; and
- (b) are reasonably fit for any purpose which you either expressly or by implication, make known to the supplier; and
- (c) might reasonably be expected to achieve any result you have made known to the supplier. Under section 22 of the Australian Consumer Law and Fair Trading Act 2012 (Vic), the supplier is entitled to ask you to agree that these conditions do not apply to you. If you sign this form, you will be agreeing that your rights to sue the supplier under the Australian Consumer Law and Fair Trading Act 2012 if you are killed or injured because the services 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" in relation to an act or omission, means doing the act or omitting to do an act with reckless disregard, with or without consciousness, for the consequences of the act or omission. See regulation 5 of the Australian Consumer Law and Fair Trading Regulations 2012 (Vic) and section 22(3)(b) of the Australian Consumer Law and Fair Trading Act 2012 (Vic). Exclusion of rights under the Australian Consumer Law (Victoria): By signing this form, you agree that the liability of The Coach for any death or personal injury (as defined in the Australian Consumer Law and Fair Trading Act 2012) that may be suffered by you (or a person from whom or on whose behalf you are acquiring the services) resulting from the supply of recreational services is excluded.

For recreational services or activities provided in ACT, Queensland or Tasmania:

For recreational services to which the ACL (ACT), ACL (QLD) or ACL (TAS) applies:

By signing these Terms and declaration, I acknowledge that where I am a consumer of recreational services, as defined by any relevant law, certain terms and rights usually implied into a contract for the supply of goods or services may be excluded. I acknowledge that these implied terms and rights and any liability of the Coach flowing from them, are expressly

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excluded to the extent possible by law, by this membership application form and declaration. To the extent of any liability arising, the liability of the Coach will, at the discretion of the Coach, be limited in the case of goods, to the replacement, repair or payment of the cost of replacing the goods and in the case of services, the resupply of the services or payment of the cost of having the services supplied again. For the avoidance of doubt, this exclusion does not exclude liability for recklessness as defined by any relevant law.

For recreational services or activities provided in South Australia:

For recreational services to which the ACL (SA) applies: Your rights: Under sections 60 and 61 of the ACL (SA), if a person in trade or commerce supplies you with services including recreational services), there is:

- (a) statutory guarantee that those services will be rendered with due care and skill; and
- (b) statutory guarantee that those services, and any product resulting from those services, will be reasonably fit for the purpose for which the services are being acquired (as long as that purpose is made known to the supplier); and
- (c) a statutory guarantee that those services, and any product resulting from those services, will be of such a nature, and quality, state or condition, that they might reasonably be expected to achieve the result that the consumer wishes to achieve (as long as that wish is made known to the supplier or a person with whom negotiations have been conducted in relation to the acquisition of the services). Excluding, restricting or modifying your rights: Under section 42 of the Fair Trading Act 1987 (SA), the supplier of recreational services is entitled to ask you to agree to exclude, restrict or modify his or her liability for any personal injury suffered by you or another person for whom or on whose behalf you are acquiring the services (a third party consumer). If you sign this form, you will be agreeing to exclude, restrict or modify the supplier's liability with the result that compensation may not be payable if you or the third-party consumer suffer personal injury.

Important:

You do not have to agree to exclude, restrict or modify your rights by signing this form. The supplier may refuse to provide you with the services if you do not agree to exclude, restrict or modify your rights by signing this form. Even if you sign this form, you may still have further legal rights against the supplier. A child under the age of 18 cannot legally agree to exclude, restrict or modify his or her rights. A parent or guardian of a child who acquires recreational services for the child cannot legally agree to exclude, restrict or modify the child's rights.

Agreement to exclude, restrict or modify your rights:

I agree that the liability of the Coach for any personal injury that may result from the supply of the recreational services that may be suffered by me (or a person for whom or on whose behalf I am acquiring the services) is excluded.

Definitions:

Recreational services are services that consist of participation in -

- sporting activity or similar leisure-time pursuit; or
- any other activity that involves a significant degree of physical exertion or risk and is undertaken for the purposes of recreation, enjoyment or leisure.

Personal injury is bodily injury and includes mental and nervous shock and death.

Further information:

Further information about your rights can be found at www.ocba.sa.gov.au

For recreational services or activities provided in Northern Territory:

For recreational services to which the ACL (NT) applies: By signing this form, I agree that the provisions of Part 3.2, Division 1, subdivision B of the ACL (NT) do not apply to the services provided to me, and the Coach incurs no liability with respect to death or personal injury for a failure to comply with a guarantee under that sub-division in relation to supply of these recreational services. By signing this document, I acknowledge that I have been made aware of the general effect of this exclusion, restriction or modification, have had a reasonable opportunity to consider whether or not to enter into this contract on that basis and have decided to enter into the contract.

I have read this release and waiver of liability, assumption of risk and indemnity agreement, fully understand its terms, understand that I have given up substantial rights by signing it, and have signed it freely and voluntarily without any inducement, assurance or guarantee being made to me and intend my signature to be a complete and unconditional release of all liability to the greatest extent allowed by law.

BY SIGNING HEREUNDER, I CONFIRM HAVING READ AND UNDERSTOOD THE CONTENTS OF THESE TERMS.

NAME (BLOCK LETTERS)

SIGN HERE

DATE

PARENT/GUARDIAN CONSENT FOR UNDER 18 YEAR OLD PARTICIPANTS

I, _____

being the parent/guardian of the abovenamed _____

confirm that I have read the whole document and have taken all necessary actions to ensure I am aware of the activity which the above named, will be asked to participate in and consent to him/her participating. In doing so, I acknowledge that equestrian activities are dangerous and that accidents causing death, bodily injury, disability and property damage can and do happen. I agree that neither the Branch, club, coach, participants, EA and its state bodies, or any subdivision thereof, officials volunteers, medical personnel, any persons promoters, sponsors, advertisers owners and lessees of premises used to conduct the event(s) shall be under any liability whatsoever for the death or any bodily injury, loss or damage which may be suffered or incurred by the abovenamed or by me in or being present at any activity conducted by, or on behalf of the Branch except for any rights for the abovenamed or I may have arising under the Competition and Consumer Act (Cth) (or similar legislation).

BY SIGNING HERUNDER I CONFIRM HAVING READ AND UNDERSTOOD THE CONTENTS OF THESE TERMS.

NAME (BLOCK LETTERS)

SIGN HERE

DATE