

ADULT RISK WARNING, WAIVER & INDEMNITY (NSW)

Shirley Villarreal ('Shirley') of 48 Hogan Drive, Wamboin, New South Wales ('Property'), her employees, agents and volunteers, together with Emilio, Andrew and Natalie Villarreal, warn every person riding, handling, touching or going near a horse:

1. regardless of its size, weight, age or education, a horse has the potential to bite, bolt, buck, crush, disobey riding aids, fall, jump, kick, lose balance, pig-root, rear, roll, shy, skid, slip, stop and turn, stumble, and toss its head and neck up and down, when the person is on or near it ('Risks');
2. a horse is a large, heavy, herd animal, prone to flight and can react suddenly and unexpectedly to external stimuli (auditory and visual, real and perceived), as well as to pain/discomfort which might be sub-clinical. It has highly developed senses of hearing, sight and smell and is wary of unfamiliar and unexpected elements in the environment. Its response to familiar but especially unfamiliar sounds, movements, objects, people, horses and other animals can be unpredictable and, because of the Risks, potentially harmful;
3. the Risks are elevated in myriad situations, including: horses ridden or handled close together; riding or handling young horses, or horses in training, or horses that lack fitness, confidence or experience; when a person has no riding or horse experience or is inexperienced; riding in the bush; shouting or raised voices; someone else can't manage or loses control of their horse; weather events such as lightning, thunder, strong wind, sideways rain and hail; flooding; fire and smoke; taking a horse into or along water or into wide open spaces; shadows on the ground or on walls; riding terrain that is or might be unstable, boggy, slippery, uneven, rocky, mounded, steep/sloping; slipping, sliding or tripping on the riding surface; leading a horse onto or off a float or truck; using clippers; using stables, washbay, yards; the horse has a vice or bad behavior or is unsound or uncooperative; the riding gear (saddle, bridle) is not properly fitted, in poor condition or unsuitable; and despite Shirley's requirement that they be worn, failure to wear a riding helmet compliant with the safety requirements of current Australian Standards and heeled riding footwear on a horse and protective footwear near a horse;
4. the following people, animals, circumstances and things are or may be present or occur wherever and whenever horse riding activities and interactions take place and can also elevate the Risks: sheep, lambs, cattle and horses (including stallions and colts), young and old, together or individually; big and small dogs (confined, roaming or leashed); cats and fowl (confined or roaming); wildlife such as emus, snakes and kangaroos; feral and pest animals including foxes, rabbits, mice and rats; horses bolting or galloping; horses on the loose; noisy, active children; rabbit holes/warrens; sight, sound and movement of vehicles, machinery and equipment (including on neighbouring land and on adjoining/nearby roads) including cars, trucks, tractors, motorbikes, ATVs, quadbikes, gators, horse floats, trailers, mowers, grass cutters/trimmers and chainsaws; surface water and water courses, including a creek; gunshots; earth works and associated equipment; people movements; falling and fallen timber; low hanging tree limbs and branches; movement of people or animals behind vegetation; shrubs, trees and litter moving in the wind; ditches and drains; sight, sound and movement of aircraft including drones; paddock, yard and arena fencing of diverse types including electrified wire and tape and plain wire; arena retaining walls; equipment used for horse training and working equitation including fixed and portable obstacles, jumps, mounting blocks, barrels, ground rails, trot poles and grids, gates, cavalettis, lunge reins, tyres and large wooden drums, plastic bags and tarpaulins; broadcast production equipment; sight and sound of spray from irrigation pumps and sprinklers;
5. regardless of prior horse experience, the Risks expose someone riding, handling, touching or going near a horse to the possibility of serious personal physical and mental injury (including death, spinal and head/brain injury) as well as aggravation, acceleration or recurrence of any pre-existing physical or mental injury, from a fall, kick, drag, crush, bite, knock or collision, even if he or she acts safely and wears a riding helmet compliant with the safety requirements of current Australian Standards, and protective footwear, but especially if no such helmet or footwear is worn; and
6. the risk of personal injury and death due to or arising from the Risks warned about is potentially greater if he or she has no riding or horse experience or is inexperienced, or has any sensory, intellectual or physical impairment or disability.

In consideration of Shirley giving you the opportunity, at your request, to ride, handle, touch or go near a horse on the Property, you acknowledge the above warning and accept Shirley's following terms:

7. you understand and acknowledge that horse riding and interaction pose a significant risk of personal injury and death;
8. you must observe and perform all Shirley's oral and written requests, directions and guidelines and, whether mounted or leading a horse, keep a safe distance from another horse;

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- 9. you must not ride, handle, touch or go near a horse (as the case may be): that is lame, sick, injured or diseased (except to look after it); that exceeds your skill; if you are adversely affected by alcohol, drugs or medication (prescribed or not); if you are impaired cognitively or physically by reason of past or present injury, illness, disease or disability (unless Shirley has given prior approval after full written disclosure); if the riding gear is not properly fitted, in poor condition or unsuitable for the horse; without wearing a riding helmet compliant with the safety requirements of current Australian Standards, and heeled riding footwear; in any way or anywhere that poses an unreasonable risk of harm to you, the welfare of another person or the horse; anywhere that Shirley has advised you not to ride or walk on;
- 10. Shirley, her employees, agents and volunteers, will not be liable for your death or personal injury (as defined in s.5 *Civil Liability Act 2002*) due to or arising out of:
 - (a) any breach of an implied warranty, condition or guarantee under the written and unwritten law that the horse activities or interactions will be rendered with reasonable care and skill;
 - (b) breach of a guarantee under Subdivision B of Division 1 of Part 3-2 of Australian Consumer Law (NSW) or of the Australian Consumer Law of the Commonwealth in relation to the horse activities or interactions (the provisions of which subdivision are excluded if applicable);
 - (c) negligence or fault on her or their part under the law; or
 - (d) materialisation of any of the Risks;
- 11. you must not make any claim or bring any legal action against Shirley, her employees, agents and volunteers, due to or arising out of your death or personal injury;
- 12. you must indemnify Shirley, her employees, agents and volunteers, against all losses, liabilities, damages and costs that she or they sustain or incur by reason of any future claim or legal action relating to your death or personal injury made or taken in contravention of clause 11 and despite the terms of clause 10;
- 13. Shirley’s employees, agents and volunteers have the right to assert and enforce the provisions of these terms directly on their own behalf as a third party beneficiary;
- 14. you consent to any necessary or prudent medical examination and treatment and acknowledges liability for the costs of it including transport by ambulance; and
- 15. if any clause in whole or part is unenforceable, void or voidable by reason of any present or future law, it must be severed (if it may not be read down) and the remainder given full force and effect.

YOU HAVE READ THIS DOCUMENT, ACKNOWLEDGE THAT IT AFFECTS YOUR LEGAL RIGHTS AND SIGN FREELY, WITHOUT COMPULSION OR OBLIGATION

This document may be executed by electronic signature which shall be considered as an original signature and have the same force and effect as an original signature. An ‘electronic signature’ includes electronically scanned and transmitted versions of an original.

_____ Dated: _____
Your signature

Print your name

Print name and contact number of person to contact in case of emergency:
