

## RISK WARNING & WAIVER

Australian Barrel Horse Association ABN 25 422 622 119 ('Association' or 'supplier'), its officer holders, volunteers, employees and agents along with the Association's affiliates, warn every person riding, racing, handling, touching or going near a horse:

1. a horse is a large, heavy, herd animal, a creature of flight and has highly developed senses of hearing, sight and smell;
2. regardless of its gender, size, weight or age, a horse can react unexpectedly, unpredictably, uncontrollably and dangerously to external stimuli (auditory and visual, real and perceived) such as bite, bolt, buck, disobey riding aids, fall, jump, kick, lose balance, pig-root, rear, roll, shy, slip, stop and turn and stumble. Such reactions can also occur in myriad situations including when: a person has no riding or horse experience or is inexperienced; someone else can't manage or loses control of their horse; the riding surface or sub-surface is loose or uneven; leading a horse onto or off a float or truck; the horse has a vice or bad behavior or is unsound, sick or injured; the horse lacks fitness and/or confidence; riding gear (saddle, bridle) is not properly fitted, in poor condition or unsuitable; and, despite the Association's requirement that they be worn, failing to wear a riding helmet compliant with current Australian Standards and heeled riding footwear on a horse and protective footwear near a horse;
3. barrel racing is a competition where the horse and rider complete a barrel course against the clock, so speed on entering the arena, negotiating the barrels and exiting the arena is required for success;
4. pole bending is a competition where the horse and rider weave a path around 6 poles arranged in a line against the clock, so speed entering the arena, weaving between the poles and exiting the arena is required for success;
5. due to its speed in a barrel or pole bending competition, a horse might:
  - (a) slip, slide, stumble or lose its footing due to surface or sub-surface conditions; or
  - (b) collide with a barrel, pole or entry/exit fence or post -causing the rider to fall to the ground or into an obstacle, or the horse and rider to fall together or the horse to fall onto the rider; and
6. irrespective of prior horse handling or riding experience, riding, racing, interacting with, or going near a horse, entails a significant risk of serious physical harm, including death, from a fall (especially if riding at speed), kick, strike, drag, crush, stomp, bite or knock, even if (but especially if not) exercising reasonable care to avoid harm and wearing a riding helmet and appropriate footwear or, if physically, mentally or cognitively impaired by drugs, alcohol, medication or an existing medical condition (including pregnancy).

Every person who rides, races, handles, touches or goes near a horse at an event or competition hosted or managed by, or affiliated with, the Association, agrees with the Association to be bound by the following terms including the contents of Form 1 of the *Fair Trading Regulations 2010 (SA)* reproduced below:

7. he or she does so at his or her own risk;
8. he or she acknowledges that barrel racing and pole bending competitions, and horse riding in general, involve a significant risk of physical harm and the potential of death;
9. he or she will observe and perform all the Association's oral and written requests, directions and rules and, whether mounted or on the ground, keep a safe distance from another horse;
10. he or she will not ride a horse: that is lame, sick, injured or diseased; exceeds his or her skill and experience; if he or she is physically, mentally or cognitively impaired by drugs, alcohol, medication, an existing medical condition or a past or present injury, illness or disease (unless the Association 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 current Australian Standards and heeled riding footwear; in any way or anywhere that poses an unreasonable risk of harm to him or herself, the welfare of another person or the horse; anywhere that the Association has advised him or her not to ride;
11. the Association will not be legally liable for bodily injury to him or her, including mental or nervous shock and death, due to or arising from:
  - (a) breach of an implied or express warranty, condition or guarantee under the written and unwritten laws of South Australia and the Commonwealth binding on the Association in relation to the event or competition;

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- (b) breach of a guarantee under Subdivision B of Division 1 of Part 3-2 of the *Australian Consumer Law (SA)* applicable to the services supplied by the Association in respect of the event or competition (the provisions of which subdivision are hereby excluded in any event);
  - (c) negligence or fault on its part under the law; or
  - (d) materialisation of any risk of horse riding and interaction, whether inherent, obvious or one the nature of which the Association has specifically warned against;
12. he or she will not make any claim or bring any legal action against the Association arising from or connected with any liability excluded by clause 11; and
13. if any clause above is unenforceable in whole or part, 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.

### **Form 1 -Recreational services - Exclusion, restriction or modification of rights under the Australian Consumer Law (SA)**

#### **Your rights:**

Under section 60 and 61 of the *Australian Consumer Law (SA)*, if a person in trade or commerce supplies you with services (including recreational services <sup>1</sup>), there is-

- a statutory guarantee that those services will be rendered with due care and skill; and
- a 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
- 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*, 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 <sup>2</sup>.

#### **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 Association 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-

- (a) excluded;
- ~~(b) restricted as set out below:  
[specify the nature of the restriction]~~
- ~~(c) modified as set out below:  
[specify the nature of the modification]~~

*\*Strike out whichever of (a), (b) or (c) do not apply and specify the nature of the restriction or modification, as is relevant.*

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**Signature:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Signature of witness:** \_\_\_\_\_

**Name and address of witness:** \_\_\_\_\_

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**Definitions**

- 1 **Recreational services** are services that consist of participation in-
  - a 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.
- 2 **Personal injury** is bodily injury and includes mental and nervous shock and death.

**Further information:**

Further information about your rights can be found at [ww.ocba.sa.gov.au](http://ww.ocba.sa.gov.au)

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*This form may be executed by electronic signature which shall be considered as an original signature and have the same legal force and effect as an original signature. An 'electronic signature' includes electronically scanned and transmitted versions of an original.*