

RISK WARNING, WAIVER & INDEMNITY

Shibumi Equestrian Centre Pty Ltd A.C.N. 128 307 157, its officers, employees, agents and contractors (together and individually 'Shibumi'), warn the driver/rider and the driver's/rider's parent/person in control of the driver/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 behavior towards sounds, sudden movement, and unfamiliar objects, people or other animals, unpredictable and potentially harmful to the driver/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, stop and spin, stumble, or stand on a person, while he/she is riding/driving or interacting with it ('Risks'). The Risks increase in a variety of circumstances, including (but not limited to): driving/riding an unfamiliar horse; horses driven/ridden/handled close together; horse training; when other drivers/riders don't control their horses or breach rules; weather affected driving/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; the horse has a vice, bad behavior or is unsound; the driving/riding gear (eg harness) is not properly fitted, in poor condition or unsuitable; and failure to wear a helmet and protective footwear, despite Shibumi's requirement that they be worn;
3. the following matters and things are or may be present where Shibumi conducts horse related activities, including driving/riding ('Activities') or nearby to the Activities, and can increase the Risks: sheep, lambs, cattle and horses alone or together; stallions and colts, alone or together; dogs on the loose, on leashes or runs; specific forms of birds and wildlife (eg kangaroos, snakes); unusual species of farm or domestic animals (eg llamas); raucous children and sirens; rabbit holes and warrens and wombat holes; vehicles, bicycles, motorcycles, tractors, farm machinery and equipment, stationary or moving; thick bush; types of terrain (eg slippery, rocky, steep, water logged, dusty and uneven); harsh or extreme weather conditions; aircraft flying low overhead; paddock and arena fencing of various forms, including electric wiring; equipment and obstacles used in the training of horses for carriage driving/riding ie dressage, marathon or cones (eg rails, upright poles, in ground or cross country poles, bridges and dams/water obstacles);
4. carriage driving presents additional and special risks because the driver will be travelling in a carriage pulled by a horse. The carriage can become unstable, uncontrollable or detach altogether in myriad circumstances including (but not limited to): the horse's harness breaks because it is in poor condition, ill-fitted or unsuitable for the carriage; the carriage is manufactured using sub-standard materials or workmanship; the carriage is not properly serviced or maintained; wear and tear of the carriage's materials; an incorrect weight to horse ratio; the winkers are not fitted properly or are removed before the carriage is detached from the horse; driving too fast or unsafely; failing to observe Shibumi's requirements and safety directions properly or at all; and if the driving terrain is weather affected; and
5. because of the Risks, the driver/rider will be exposed, by driving/riding and/or handling a horse, to the possibility of death, serious permanent personal injury (including paralysis and brain injury) or minor injury, even if he/she acts safely and wears an approved helmet and protective footwear but especially if no such helmet or footwear is worn.

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The driver/rider and the driver's/rider's parent/person in control of the driver/rider agree with Shibumi, in return for Shibumi permitting the driver/rider to engage in Activities from time to time, that:

6. the driver/rider participates in the Activities at his/her own risk;
7. Shibumi will not be liable for the death of, or personal injury (as defined by s.5 *Civil Liability Act* 2002 NSW) to the driver/rider, or the death of or injury to the driver's/rider's horse, due to or arising out of:
 - (a) any breach of an implied warranty or condition under the 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 (NSW) in relation to the Activities (the provisions of which subdivision are excluded);
 - (c) negligence or fault on its part under the law; or
 - (d) the materialisation of any of the Risks;
8. they will not make any claim or legal action against Shibumi relating to any liability excluded by clause 7;
9. they will indemnify Shibumi 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 driver/rider or owner of the horse relating to the death of or personal injury to the driver/rider or death of or harm to the driver's/rider's horse;
10. Shibumi is not liable for death of or harm to the driver's/rider's horse or loss of or damage to any personal property in the possession, custody or control of the driver/rider arising from breach of any implied condition, warranty or guarantee under the written or unwritten law of NSW, including the Australian Consumer Law (NSW), however, if Shibumi is held liable, liability will be limited (at the option of Shibumi) to the amount of the payment of the cost of having the Activities supplied again or the repair of the property; and
11. if any clause (or part of one) is unenforceable or void by reason of any present or future law, it must be severed (if it cannot be read down) and the remainder construed and applied without it.

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

Driver's/rider's signature

Parent's/person in control's signature

For Shibumi

Driver's/rider's name in letters

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

Dated:

Driver's/rider's address: _____

