

# CONSENT, RELEASE AND INDEMNIFICATION AGREEMENT



Horizons East Equestrian Center, Inc., Barbara Endean, and Samantha Lanzone

THIS CONSENT, RELEASE AND INDEMNIFICATION AGREEMENT ("Release") is entered into by the undersigned in favor of Horizons East Equestrian Center, Inc., each of the employees and agents of Horizons East Equestrian Center, Inc., Barbara EnDean, and Samantha Lanzone (collectively, the "Released Parties", and each a "Released Party").

In consideration for being permitted by any Released Party to participate in the sport of horseback riding at the equine boarding facility know as Horizons East Equestrian Center located at 5111 Doolan Rd, Livermore, CA 94551 (the property), and to use the facilities of the Property (whether or not such use is on a pay basis), and to participate in horse show competitions under the training of any Released Party, I acknowledge and agree as follows:

1. Hazardous Activity: I AM AWARE AND UNDERSTAND THAT THE HANDLING, CARE, AND RIDING OF HORSES ARE INHERENTLY HAZARDOUS ACTIVITIES, AND I AM VOLUNTARILY PARTICIPATING IN SUCH ACTIVITIES, AND PLACING MYSELF IN THE VICINITY OF SUCH ACTIVITIES, WITH THE FULL KNOWLEDGE OF THE DANGERS INVOLVED. I am aware and understand that horses are powerful, unpredictable, and potentially uncontrollable animals. All horses, even those that are well trained and appear calm and docile, may and will buck, rear, kick, bite, run, and bolt uncontrollably, without warning, and without apparent cause or in response to external stimuli (such as wind or sounds, or movement of people, other horses, other animals, motor vehicles, bicycles, machinery or doors) that may induce fear, panic, anger, or reflex actions in the horse. I am aware and understand that serious, permanent bodily injury and disability or death of myself, or others within the vicinity of horses, may result from the handling, care, or riding of horses, or on being in the vicinity of horses, and that horses and other property belonging to me or others may be, as applicable, killed, injured, or damaged.

I HEREBY AGREE TO ACCEPT AND ASSUME ANY AD ALL RISKS OF INJURY (INCLUDING PERMANENT BODILY INJURY AND DISABILITY), ILLNESS, DISEASE, OR DEATH SUFFERED BY MYSELF OR BY ANY OTHER PERSONS, AND ANY AND ALL FINANCIAL LOSSES, INJURY, DAMAGES, DESTRUCTION, OR LOSS OF MY PROPERTY OR THE PROPERTY OF ANY OTHER PERSON CAUSED BY, RESULTING FROM, OR ARISING OUT OF THE HANDLING, CARE, OR RIDING OF HORSES AT THE PROPERTY BY MYSELF OR ANY OTHER PERSON, EXCEPT TO THE EXTENT THAT SUCH DAMAGES ARE CAUSED SOLELY BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF THE RELEASED PARTY OR PARTIES. I FURTHER UNDERSTAND THAT IT IS MY RESPONSIBILITY TO BE INSTRUCTED IN THE PROPER METHODS OF HANDLING AND RIDING OF HORSES AND THAT I SHOULD WEAR PROPER SAFETY EQUIPMENT AT ALL TIMES WHILE RIDING HORSES, INCLUDING, WITHOUT LIMITATION, AN APPROVED HELMET AND RIDING BOOTS.

2. Conditions at the Property: I am aware and understand that in the ordinary course of business, motor vehicles (with or without horse trailers) and bicycles continuously enter and exit the Property's property in close proximity to the areas, and in the same areas, in which horses are boarded, groomed, and ridden. I further understand that tractors and other machinery are used on a daily basis in the operation, maintenance, and repair of the Property, that persons work, ride, lunge, turn out, and hand-walk horses, dogs, cats and non domesticated animals run loose, flags and other objects wave, and other distracting activities, occur at the Property, on a daily basis, in close proximity to horses. Such distracting activities may cause horses to react in an unpredictable and dangerous manner, without warning.

I ACCEPT AND ASSUME ANY AND ALL RISK OF INJURY, DISABILITY, DEATH, DAMAGE, AND LOSS SUFFERED BY MYSELF OR ANY OTHER PERSON, OR BY MY HORSE OR PROPERTY OR BY ANY OTHER PERSON'S HORSES OR PROPERTY, CAUSED BY, RESULTING FROM, OR ARISING OUT OF MY REACTION OR THE REACTION OF MY HORSE OR ANY OTHER HORSE TO SUCH DISTRACTING ACTIVITIES, EXCEPT TO THE EXTENT THAT SUCH DAMAGES ARE CAUSED SOLELY BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF THE RELEASED PARTY OR PARTIES.

3. Riding Lessons: If I participate in riding lessons taught by a Released Party at the Property or at horse show competitions, I agree that I and not the Released Party or any other third party, am responsible for maintaining the control of the horse I ride and none of the Released Parties shall have any liability I the event of the loss of or damage to me or my horse in the course of riding lessons, except to the extent caused solely by the gross negligence or willful misconduct of the Released Parties.

4. Horse Training Services: I agree that if I purchase horse training services from a Released Party, none of the Released Parties shall have any liability in the event of the loss or damage to my horse in the course of training my horse, except to the extent caused solely by the gross negligence or willful misconduct of the Released Parties.
5. Routine Veterinary Care, Emergency Veterinary Care
  - a. RoutineCareIfmyhorseisboardedonthepropertyIacknowledgemyobligationstokeepthehorsecurrent for all immunization and wormings, for the protection of my horse as well as others boarded on the Property. I agree that Released Party may administer or arrange for immunizations and wormings for my horse while it is boarded on the Property. I agree to compensate DRM at prevailing and customary rate for costs incurred by DRM or any other Released Party for such veterinarian care. I understand and agree that nothing in this release creates any duty on any Released Party to administer immunizations or wormings for my horse or any other horse in my possession or under my control.
  - b. EmergencyCareIfmyhorseoranotherhorseinmypossessionorundermycontrolbecomesickorinjured, it may be necessary (or may reasonably appear necessary) that immediate veterinary care to be administered to the horse, and it may be necessary to transport such horse to a veterinary clinic or other facility at which veterinary care may be administered. I agree that any Released Party may administer or arrange for first aid to my horse or any other horse in my possession or under my control, and may transport such horse to a veterinary or veterinary care facility. I further agree that if any of the Released Parties reasonably believes that my horse or any other horse in my possession or under my control requires emergency veterinary care, and if I cannot be contacted in such an emergency situation, any of the Released Parties may, at my sole expense and risk, call a veterinary of his or her choice to administer veterinary care to such horse. I agree to compensate DRM at prevailing and customary rates for costs incurred by DRM or any other Released Party for such veterinarian care and transportation. I understand and agree that nothing in this Release creates any duty on the part of any Released Party to administer any type of aid to, arrange for transportation for, or obtain veterinary care my horse or any other horse in my possession or under my control.
6. Horse Hauling Services: I agree that if I direct Released Party to haul or ship my horse and riding equipment to a location identified by me, none of the Released Parties shall have any liability in the event of the loss, damage, unauthorized use (by any person other than a Released Party), or theft of my horse or my riding equipment in the course of hauling, or shipping, except to the extent caused solely by the gross negligence or willful misconduct of the Released Parties.
7. Personal Property: I agree that if I bring any personal property to the Property, and if I store or leave any personal property at the Property (including property left in the tack room), I will do so at my own risk, and none of the Released Parties shall have any liability in the event of the loss, damage, unauthorized use (by any person other than a Released Party), or theft of any such property, except to the extent caused solely by the gross negligence or willful misconduct of the Released Parties.
8. Agreement not to Sue: I HEREBY AGREE THAT NEITHER I, NOR MY HEIRS, DISTRIBUTEES, GUARDIANS, LEGAL REPRESENTATIVES, OR ASSIGNEES WILL MAKE A CLAIM AGAINST, SUE, DEMAND COMPENSATION OR INDEMNITY FROM, OR ATTACH ANY OF THE PROPERTY OR ASSETS OF ANY OF THE RELEASED PARTIES for any loss, damage, bodily injury, disability, illness, disease, death, financial loss, property loss, damage, or destruction or other harm of whatever nature, whether foreseen or unforeseen, suffered by myself, any other person, my horse or any other person's horse caused by, resulting from, or arising out of, directly or indirectly, my participation, or the participation of any other person in the handling, care, riding or training of horses, the use of the facilities of the Property, the transportation of any horse, the administration of any and or veterinary care to any horse, or failure to arrange for veterinary aid or care at the Property, except to the extent caused solely by the gross negligence or willful misconduct of the Released Party or Parties.
9. Release: On behalf of myself, my heirs, distributees, guardians, legal representatives, and assignee I HEREBY FULLY AND UNCONDITIONALLY RELEASE AND FOREVER JOINTLY AND SEVERALLY DISCHARGE THE RELEASED PARTIES, TO THE EXTENT PERMITTED BY LAW FROM ANY AND ALL CLAIMS, ACTIONS, DEMANDS, RIGHTS, CAUSES OF ACTION, AND LIABILITIES OF ANY KIND, WHETHER IN LAW OR IN EQUITY, OR ANY COMMON LAW CLAIMS OF ANY KIND including without limitation, breach of contract, for negligence, negligent misrepresentation, and any or all real or pretended claims, causes of action or demands, whether foreseen or unforeseen, which may be sustained by me or any other person as a direct or indirect result of my participation in the handling, care or riding of horses at the Property or at horse show competitions, or the use of the facilities of the Property in any manner, except to the extent caused solely by the gross negligence or willful misconduct of the Released Party or Parties. I understand that as part of the consideration for this Release, I waive the provisions of section 1542 of the California Civil Code, which reads as follows  

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.
10. Indemnification: I HEREBY AGREE TO INDEMNIFY EACH OF THE RELEASED PARTIES AGAINST AND DEFEND AND HOLD EACH OF THEM HARMLESS FROM, all damages, liabilities, losses and out of pocket expenses and costs suffered or incurred by any of them, and any claims and actions with respect thereto
  - a. Arising out of any wrongful or negligent act or omission by me while at the Property or while participating in a horse show under the training of any Released Party, or

- b. Asserted by any third party whom I bring or invite to the Property or other wise permit to be in the vicinity of any horse in my possession or control, other than those claims or actions based by such third party on the gross negligence or willful misconduct of the respective indemnified Released Party
11. Sponsors and Invitees: I AGREE THAT I WILL NOT PERMIT ANY PERSON (OTHER THAN THE RELEASED PARTIES) TO HANDLE OR RIDE MY HORSE, OR ANY OTHER HORSE UNDER MY CONTROL AT THE PROPERTY UNLESS SUCH PERSON HAS DULY SIGNED AND DELIVERED TO DRM, OR HIS AGENT, THIS FORM OF RELEASE OR A SIMILAR FORM PROVIDED BY DRM
12. Representations and Warrantees: I represent and warrant that
- I HAVE READ THIS RELEASE CAREFULLY, AND I FULLY UNDERSTAND THE WORDS, TERMS AND EFFECTS OF THIS RELEASE,
  - I am 18 years of age or older and am legally competent to enter into this Release,
  - No promise, inducement, or agreement has been offered or made to me in connection with my execution and delivery of this Release,
  - I have obtained health insurance which provides reasonable insurance coverage and will maintain such health insurance while I participate in the sport of horseback riding at the Property, use the facilities of the Property, or participate in horse shows under the training of any Released Party, and
13. I HAVE EXECUTED THIS RELEASE VOLUNTARILY, WITHOUT RELYING ON ANY STATEMENT OR REPRESENTATION OF ANY RELEASED PARTY. I UNDERSTAND AND ACKNOWLEDGE THAT THIS RELEASE IS A RELEASE OF LEGAL LIABILITY. I FURTHER UNDERSTAND AND AGREE THAT THE RELEASED PARTIES WILL USE THIS RELEASE AS A DEFENSE TO ANY CHARGE WHILE I FILE, INVESTIGATION OR PROCEEDING IN WHICH I PARTICIPATE, OR REMEDY I SEEK
14. Certain Limitations of Release: The provisions of this Release shall not be enforceable by any persons or entities other than the Released Parties. This Release shall not apply to any injury, illness, death, or disability of my horse caused by the failure to provide regular food, water or other items to my horse to the extent any of the Released Parties are contractually required, by specific written contract, to provide such items.
15. Dispute Resolution: The parties shall exercise good faith reasonable efforts to achieve resolution of disputes arising out of or relating to this Agreement, or the breach thereof through one of the following means
- Small Claims Court If applicable, the parties shall exercise good faith reasonable efforts to achieve resolution through proceedings in small claims court in Alameda, California
  - Mediation In the event that a proceeding cannot be brought in small claims court under subsection 14(a), the parties shall exercise good faith reasonable efforts to achieve resolution through non-binding mediation. Any mediation will be conducted under the auspices of Action Dispute Resolution Services (ADRS) in San Francisco, California, or such other location serviced by ADRS which is mutually accepted to the parties. The mediation shall be commenced by any party making a written demand for mediation to the administrator of ADRS and serving the demand on the opposing party. Within fifteen (15) days after such demand is made, the parties shall mutually select a mediator through ADRS. If the parties are unable to agree on a mediator, the administrator of ADRS shall select an independent mediator. The parties to the mediation shall equally share the costs of the mediation; however, no party shall be required to pay more than \$2,000.00 in connection with any single mediation under this Agreement unless such party agrees to do so in writing.
16. Attorney's Fees: If either party employs attorneys to enforce any rights arising out of or relating to this Agreement, the prevailing party in such disputes shall be entitled, in addition to its other rights hereunder, to recover reasonable attorney's fees and all related expenses. "Prevailing party" means the party in whose favor any monetary or equitable award is made, regardless of settlement offers.
17. Governing Law: This Agreement is made in and shall be governed by the laws of the State of California, without regard to its choice of law principles. 18. Entire Agreement

This Agreement may be amended only by a written document executed by a duly authorized representative of each of the parties. This Agreement constitutes the entire agreement between the parties concerning the subject matter of this Agreement and it replaces and supersedes any prior verbal or written understandings, communications, and representations between the parties regarding the subject matter of this Agreement.