

## ASSUMPTION OF RISK AND RELEASE AND INDEMNIFICATION AGREEMENT

THIS ASSUMPTION OF RISK, RELEASE AND INDEMNIFICATION AGREEMENT (“Release”) is entered into by the undersigned in favor of Fernanda Kellogg, Kirk Henckels and Fitch’s Corner Ltd. and all employees and agents (collectively, the “Released Parties,” and each a “Released Party”). In consideration of my being permitted by any Released Party to participate in the activity and sport of horseback riding at the property located at North Mabbettsville Road, Millbrook, NY, and to use the facilities of the Property, 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 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 sound, 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 being in the vicinity of horses, and that horses and other property belonging to me or others, may be killed, injured or damaged.
- 2) **CONDITIONS OF THE PROPERTY.** I am aware and understand that motor vehicles (with or without horse trailers) and bicycles and farm machinery enter and exit the property in close proximity to the areas and in the same areas, in which horses are boarded, groomed and ridden. I further understand that there may be work equipment used and operated for repair of the property and that persons work, ride, lunge, turn-out and handle horses, and other distracting activities occur at the property in close proximity to the horses. Such distracting activities may cause horses to react in an unpredictable and dangerous manner without warning. I am aware and understand that riding rings at the property are uncovered and that rain or run off may enter the rings causing the riding surface to become slippery and that the slippery nature of the riding surface may not be apparent upon visual inspection. I am also aware and understand that the roads, fields and other grounds and fields at the property, may at any time be wet, snowy, icy, slippery, rutted, eroded, rocky or may contain holes.
- 3) **AGREEMENT NOT TO SUE.** I hereby agree that neither I, nor my heirs, successors, or assigns, will make any claim against, sue, demand compensation or indemnify 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, my horse, or any other person caused by, resulting from, or arising out of, directly or indirectly, my participation, or the participation of any other person, in the handling, care, or riding of horses, the use of the facilities of the property, except to the extent caused solely by the gross negligence or willful misconduct of the Released Party or Parties.
- 4) **RELEASE.** On behalf of myself, my heirs, successors and assigns 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 by 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, or negligence, negligent misrepresentation, and any or all real or pretended claims, causes or actions 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 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.

- 5) 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 (b) asserted by any person whom I bring or invite to the property or otherwise permit to be in the vicinity of any horse in my possession or control, other than those based by such third party solely on the gross negligence or willful misconduct of the respective indemnified party.
- 6) REPRESENTATIONS AND WARRANTIES. I represent and warrant that, (a) I have read this release carefully, and I fully understand the words, terms and effects of this release, (b) I am 18 years of age or older and I am legally competent to enter into this release, or am under 18 years of age and this release is being signed by a parent on my behalf who is 18 years of age or older and legally competent to enter into this release, (c) no promise, inducement or agreement has been offered or made to me in connection with my execution and delivery of the release, (d) 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 claim, which make investigation or proceeding in which I participate, or remedy, which I seek.
- 7) CERTAIN LIMITATIONS OR RELEASE. The provisions of this release shall not be enforceable by any persons or entities other than the Released Parties.
- 8) SEVERABILITY. Any provision of this release which is held to be unenforceable or illegal shall be stricken and the rest of the provisions shall remain in full force and effect.

I HEREBY AGREE TO ACCEPT AND ASSUME ANY AND ALL RISKS OF INJURY (INCLUDING PERMANENT BODILY INJURY AND DISABILITY), ILLNESS, DISEASE OR DEATH SUFFERED BY MYSELF, BY MY HORSE OR BY ANY OTHER PERSONS OR HORSES AND ANY AND ALL FINANCIAL LOSS, 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 WITH 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 WORKING AROUND OR RIDING HORSES.

I HAVE CAREFULLY READ THIS AGREEMENT, AND I UNDERSTAND AND ACKNOWLEDGE THAT IT IS A COMPLETE RELEASE OF LIABILITY AND A PROMISE NOT TO SUE OR MAKE A CLAIM AGAINST THE RELEASED PARTIES. I AM AWARE THAT THIS AGREEMENT IS A CONTRACT BY AND BETWEEN FERNANDA KELLOGG AND FITCH'S CORNER LTD. OF MILLBROOK, NY AND

This ASSUMPTION OF RISK AND RELEASE AND INDEMNIFICATION AGREEMENT is made and entered into in the State of New York, and shall be enforced and interpreted under the laws of said state. If there are any questions, consult an attorney prior to signing this ASSUMPTION OF RISK AND RELEASE AND INDEMNIFICATION AGREEMENT.

SIGNED:

DATE:

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PRINT NAME: \_\_\_\_\_