

SCHEDULE 3 – PARTICIPANT WAIVER

**WAIVER**

**THIS IS AN IMPORTANT LEGAL DOCUMENT. IT IS VERY IMPORTANT THAT YOU READ IT (TOGETHER WITH ALL SCHEDULES) CAREFULLY AND THAT YOU ARE SATISFIED THAT YOU UNDERSTAND ALL OF IT BEFORE YOU SIGN. WE ENCOURAGE YOU TO OBTAIN INDEPENDENT LEGAL ADVICE PRIOR TO SIGNING.**

I have read, understood and accept the above terms and conditions, the Exclusion of Liability, Release and Assumption of Risk at Appendix A and the Recreational Services Fair Trading Act Waiver at Appendix B.

I agree to execute the attached Recreational Services Fair Trading Act Waiver set out at Appendix B as a condition of entry and acknowledge that if I do not execute the Waiver, then Mallala Motor Sport Park Pty Ltd may refuse entry.

Name: ..... Signature: ..... Date: .....

**APPENDIX A**

**EXCLUSION OF LIABILITY, RELEASE AND ASUMPTION OF RISK – INDIVIDUAL PARTICIPANT**

In consideration of **MALLALA MOTORSPORT PARK PTY LTD A.C.N. 618 849 433** (“MMP”) allowing me to attend and or participate in the Activity, I understand, acknowledge and agree:

- (motor sport can be dangerous)** Participation in motor sport, whether as a driver, passenger or spectator, under the conditions created for the Activity, can be dangerous. I accept the venue of the Activity as it stands with all or any defects hidden or exposed.
- (injury, death, loss of property)** My participation in the Activity carries with it the potential for personal injury to me and/or others, and also for loss or damage to my property and the property of others. Accidents causing harm can and do occur and may happen to me.
- (own choice)** I am attending the Activity out of my own choice and for my personal enjoyment. I acknowledge that I have an obligation to myself and to others to act safely and within relevant rules and regulations.
- (follow directions)** During my participation in the Activity and at all times while I am at the venue at which the Activity is conducted, I will follow the directions of any employee, contractor or agent of MMP. I acknowledge that such directions are given free of any warranty to me and that even if I do follow directions, accidents may happen.
- (no duty of care)** During my preparation for, and participation in, the Activity and at all times while I am at the venue, I acknowledge that the Indemnitees do not owe me a duty of care under contract, applicable legislation, equity or at common law. For the avoidance of doubt, I acknowledge that any directions given (including any given in accordance with Clause 4 above) do not operate to give effect to such a duty of care and in the case of any proceedings, cannot be used as evidence of such duty.
- (release and indemnity)** To the maximum extent permitted by law, I release, forever hold harmless and indemnify MMP and its related entities (“Associated Companies”) and the directors, officers, employees, agents, contractors, partners, shareholders, representatives and members of the Associated Companies and any sponsors, promoters, or organisers of the Activity (“Associated Entities”) from and against all and any claims, actions, suits, costs, legal fees, damages, judgements, orders and liabilities of whatever kind or nature, arising out of or in connection with my preparation for and participation in the Activity, whether occurring before, during or after my actual participation in the Activity, including, without limitation, any claim for any personal injury to me, loss or damage to my property and/or any claims arising in connection with my participation in the Activity including as a result of any acts or omissions (but excluding reckless conduct) of MMP, the Associated Companies and/or the Associated Entities (the “Indemnitees”). This release and indemnity covers all claims that I or anyone acting on my behalf is able to exclude, release liability or indemnify in respect of, at law.
- (no existing medical conditions)** As at today, I am not aware of any existing condition or conditions (including without limitation any physical and/or mental or physical or mental illness or disease and/or pregnancy) that may be affected by my preparation for and participation in the Activity. I acknowledge that it is my responsibility to inform the Indemnitees of such conditions and that the Indemnitees will continue to rely upon this declaration as evidence of my fitness and ability to participate. Participation in the Activity even after my disclosure of such conditions is at my own risk.

I, voluntarily and fully accept and assume all of the known and unknown risks associated with the Activity and understand, agree and acknowledge that the exclusion of liability, release and assumption of risk in this document expressly applies to these risks and all and any consequences of these risks.

A term of this document will not apply where the term contravenes the law of the relevant jurisdiction under which any legal action is legitimately taken however such terms are severable and do not invalidate the remaining terms.

In this document:

“**Activity**” means my participation in any activity or event held or situated at Mallala Motorsport Park or my attendance at Mallala Motorsport Park (as applicable); and

“**Personal injury**” means bodily injury and includes mental and nervous shock and death.

APPENDIX B

RECREATIONAL SERVICES FAIR TRADING WAIVER – INDIVIDUAL PARTICIPANT

[To be executed by individual participant]

FAIR TRADING REGULATIONS 2010 - Form 1 — Recreational services — Exclusion, restriction or modification of rights under the Australian Consumer Law (SA)

Your rights:

Under sections 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 MALLALA MOTORSPORT PARK PTY LTD 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:
(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.

Signature: ..... Date: .....

Signature of witness: ..... Name & address of witness: .....

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 www.ocba.sa.gov.au