

# Risk Warning, Disclaimer and Indemnity

## Risk Warning and Disclaimer

**Motorsport Activities are inherently dangerous recreational activities and there is significant risk of injury, disability or death. If you do not wish to be exposed to such risks, then you should not participate in the Motorsport Activities.**

### Acknowledgement of Risks

You acknowledge that the risks associated with attending or participating in Motorsport Activities include but are not limited to the risk that you may suffer harm as a result of:

- motor vehicles (or parts of them) colliding with other motor vehicles or persons or property;
- other participants acting dangerously or with lack of skills;
- high levels of noise exposure;
- acts of violence and other harmful acts (whether intentional or inadvertent) committed by persons attending or participating in the event; and
- the failure or unsuitability of facilities (including grand-stands, fences and guard rails) to ensure your safety.

### Exclusion of Liability, Release and Indemnity

In exchange for being able to attend or participate in the Motorsport Activities, you will and agree to:

- release Motorsport Australia and the Entities to the extent that any or all of them are providing Recreational Services from all liability for:
  - your death;
  - any physical or mental injury (including the aggravation, acceleration or recurrence of such an injury);
  - the contraction, aggravation or acceleration of a disease including but not only COVID-19;
  - the coming into existence, the aggravation, acceleration or recurrence of any other **condition, circumstance, occurrence, activity, form of behaviour, course of conduct or state of affairs:**
    - that is or may be harmful or disadvantageous to you or the community; or
    - that may result in harm or disadvantage to you or the community,
  - any claim for any costs and expenses you may incur as a consequence of any of the above; arising from your participation in or attendance at the Motorsport Activities;
- **indemnify and hold harmless and keep indemnified** Motorsport Australia and the Entities to the maximum extent permitted by law in respect of any Claim by any person directly caused by or arising from your Reckless Conduct; and
- attend at or participate in the Motorsport Activities at your own risk.

### You understand that:

- nothing in this document excludes, restricts or modifies any rights that you may have as a result of significant personal injury that is caused by the Reckless Conduct of Motorsport Australia and the Entities as the supplier of the Motorsport Activities and Recreational Services;
- nothing in this document prevents Motorsport Australia and the Entities from relying on any laws (including statute and common law) that limit or preclude their liability;
- nothing in this document excludes any term or guarantee which under statute cannot be excluded, however the liability of Motorsport Australia and the Entities is limited to the minimum liability allowable by law;
- nothing in this document precludes you from making a claim under a Motorsport Australia insurance policy where you are expressly entitled to make a claim under that insurance policy including without limitation a management liability policy provided by or procured through Motorsport Australia and its Entities; and
- Motorsport Australia has arranged for limited personal injury insurance coverage which may provide you with some protection for loss, damage or injury that you may suffer during your participation in the Motorsport Activities. You acknowledge and accept that the insurance taken out by Motorsport Australia may not provide you with full indemnity for loss, damage or injury that you may suffer during your participation in the Motorsport Activities, and that you may have to pay the excess if a Claim is made under an insurance policy on your behalf. You agree that your own insurance arrangements are ultimately your responsibility and you will arrange any additional coverage at your expense after taking into account Motorsport Australia's insurance arrangements, this document and your own circumstances.

### Where Motorsport Activities are held in the following jurisdictions, you acknowledge that you have also read and accept the following warnings:

Under Australian Government Consumer Law (which is part of the **Competition and Consumer Act 2010 (Commonwealth)**), several guarantees are implied into contracts for the supply of certain goods and services. You agree that the application of all or any of the provisions of Subdivision B of Division 1 of Part 3-2 of Australian Consumer Law (i.e. guarantees relating to the supply of services), the exercise of rights conferred by those provisions, and any liability of Motorsport Australia and the Entities for a failure to comply with any such guarantees, are excluded.

However, such exclusion is limited to liability for:

- death, physical or mental injury (including aggravation, acceleration or recurrence of such an injury of the individual);
- contraction, aggravation or acceleration of a disease of an individual; or
- the coming into existence, the aggravation, acceleration or recurrence of any other condition, circumstance, occurrence, activity, form of behaviour, course of conduct or state of affairs in relation to an individual that is or may be harmful or disadvantageous to the individual or the community, or that may result in harm or disadvantage to the individual or the community. This exclusion does not apply to significant personal injury suffered by you as a result of the reckless conduct of Motorsport Australia and the Entities.

**Important:** You do not have to agree to exclude, restrict or modify your rights. However if you participate in, attend or spectate at the Motorsport Activities you have agreed to said exclusion, restriction or modification of your rights. Note that you may have further legal rights against the supplier under other laws. A child under the age of 18 cannot legally agree to exclude, restrict or modify their 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:** You agree that the liability of Motorsport Australia and the Entities for any death or personal injury that may result from the supply of the recreational services that may be suffered by you (or a person for whom or on whose behalf you are acquiring the services) is excluded. Further information about these rights can be found at [www.cbs.sa.gov.au](http://www.cbs.sa.gov.au)

**Definitions:**

- a. "Claim" means and includes any action, suit, proceeding, claim, demand or cause of action however arising including but not limited to negligence, BUT does NOT include a claim under a Motorsport Australia insurance policy by any person expressly entitled to make a claim under that insurance policy;
- b. "Entities" means event and competition organisers/promoters/managers, land and track owners/managers/administrators/lessees, Motorsport Australia affiliated clubs, state and territory governments and insureds listed in Motorsport Australia's public/product/professional indemnity insurance policies and each of their related bodies corporate (including their related bodies corporate) and each of their organs and agencies, officers/president/directors/executives, employees, servants, agents, partners, providers, members, competitors, drivers, co-drivers, navigators, officials, crew members, service crew, delegates, licence holders, representatives, commissions, committees, advisers, trustees, councils, panels, shareholders, volunteers, officials, appointees, delegated bodies and sponsors;
- c. "Motorsport Activities" means any motorsport activities or Recreational Services which are permitted or approved which Motorsport Australia regulates or administers or otherwise are under the responsibility / control of Motorsport Australia;
- d. "Motorsport Australia" means the Confederation of Australia Motor Sport Ltd. trading as Motorsport Australia;
- e. "Reckless Conduct" means conduct where the supplier of the recreational services is aware, or should reasonably have been aware, of a significant risk that the conduct could result in personal injury to another person and engages in the conduct despite the risk and without adequate justification;
- f. "Recreational Services" means (unless otherwise defined in this document) services that consist of participation in:
  - a. a sporting activity; or
  - b. a similar leisure time pursuit or any other activity that:
    - i. involves a significant degree of physical exertion or physical risk; and
    - ii. is undertaken for the purposes of recreation, enjoyment or leisure.