

FORM –RISK WARNING AND WAIVER



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ALL PARTICIPANTS MUST SIGN THIS FORM. IF THE PARTICIPANT IS UNDER 18 YEARS, THIS FORM IS TO BE SIGNED ON THEIR BEHALF BY THE PARENT OR GUARDIAN, NOT BY THE UNDERAGE PARTICIPANT.

THE COMPLETED FORM MUST BE RETAINED BY THE CLUB AND PROVIDED TO ATHRA ON REQUEST.

RISK WARNING AND WAIVER

Risk warning and acknowledgement

Your participation in the recreational activities supplied by ATHRA (Australian Trail Horse Riders Association) may involve risk. The risks involved may result in personal injury including death. Prior to undertaking any such recreational activity, you should ensure you are aware of all of the risks involved, including those risks associated with any health condition you may have.

By signing below, you acknowledge, agree, and understand that participation in the recreational services provided by ATHRA may involve risk. You agree and undertake any such risk voluntarily and at your own risk. You also acknowledge that the risk warning above constitutes a 'risk warning' in accordance with relevant legislation, including the *Civil Liability Act 2002* (NSW) and the *Civil Liability Act 2002* (WA).

Waiver

It is possible for a supplier of recreational services or recreational activities to ask you to agree that statutory guarantees under the Australian Consumer Law (which is Schedule 2 to the *Competition and Consumer Act 2010* (Cth)) do not apply to you (or a person for whom or on whose behalf you are acquiring the services). If you sign this form, you will be agreeing that your rights (or the rights of a person for whom or on whose behalf you are acquiring the services) to sue the supplier in relation to recreational services or recreational activities that you undertake because the services or recreational activities provided were not in accordance with the guarantees are excluded, restricted or modified as set out below.

For recreational services or recreational activities to which the Australian Consumer Law (Commonwealth), (New South Wales) and (Western Australia) applies

By signing this form, you agree that the liability of ATHRA in relation to recreational services (as that term is defined in the *Competition and Consumer Act 2010* (Cth) and the Australian Consumer Law) and recreational activities (as that term is defined in the *Civil Liability Act 2002* (NSW) and the *Civil Liability Act 2002* (WA)) for any:

- a. death;
- b. physical or mental injury (including the aggravation, acceleration or recurrence of such an injury);
- c. the contraction, aggravation or acceleration of a disease;
- d. the coming into existence, the aggravation, acceleration or recurrence of any other condition, circumstance, occurrence, activity, form of behavior, course of conduct or state of affairs:
 - i. that is or may be harmful or disadvantageous to you or the community;
 - ii. that may result in harm or disadvantage to you or the community,

that may be suffered by you (or a person for whom or on whose behalf you are acquiring the services) resulting from the supply of recreational services or recreational activities is excluded.

For recreational services to which the Australian Consumer Law (Northern Territory) applies

By signing this form, you agree that the liability of ATHRA for any death or personal injury (as defined in the *Consumer Affairs and Fair Trading Act* (NT)) that may be suffered by you (or a person from whom or on whose behalf you are acquiring the services) resulting from the supply of recreational services is excluded.

For recreational services to which the Australian Consumer Law (South Australia) applies

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 services¹), there is –

- a. a statutory guarantee that those services will be rendered with due care and skill; and
- b. 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
- c. 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* (SA), 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 injury².

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 of ATHRA 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 excluded.

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.

³ **ATHRA** is the Australian Trail Horse Riders Association

Further information

Further information about your rights can be found at www.ocba.sa.gov.au

For recreational activities to which the Australian Consumer Law (Victoria) applies

Under the Australian Consumer Law (Victoria), several statutory guarantees apply to the supply of certain goods and services. These guarantees mean that the supplier named on this form, ATHRA is required to ensure that the recreational services it supplies to you—

- a. are rendered with due care and skill; and
- b. are reasonably fit for any purpose which you, either expressly or by implication, make known to the supplier; and
- c. might reasonably be expected to achieve any result you have made known to the supplier.

Under section 32N of the *Fair Trading Act 1999*, the supplier is entitled to ask you to agree that these statutory guarantees do not apply to you. If you sign this form, you will be agreeing that your rights to sue the supplier under the *Fair Trading Act 1999* if you are killed or injured because the services provided were not in accordance with these guarantees, are excluded, restricted or modified in the way set out in this form.

NOTE: The change to your rights, as set out in this form, does not apply if your death or injury is due to gross negligence on the supplier's part. Gross negligence is defined in the *Fair Trading (Recreational Services) Regulations 2004*.

Exclusion of rights under the Australian Consumer Law (Victoria)

By signing below, I agree that the liability of ATHRA for any death or personal injury (as defined in the *Fair Trading Act 1999*) that may be suffered by me (or a person from whom or on whose behalf I am acquiring the services) resulting from the supply of recreational services is excluded.

Print Name of Participant:.....

Signature of Participant*:..... **Date:**

**If Participant is under 18 years, Participant's Parent or Guardian signs on behalf of the underage Participant.*

Signature of witness:.....

Name & address of witness:.....

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