

## **Member Declaration Rowing Membership Application**

**THIS IS AN IMPORTANT DOCUMENT WHICH AFFECTS YOUR LEGAL RIGHTS AND OBLIGATIONS, PLEASE READ IT CAREFULLY AND DO NOT SIGN IT UNLESS YOU ARE SATISFIED YOU UNDERSTAND IT.**

1. I, ..... hereby apply to participate in Rowing Activities. In consideration of the **Albert Park South Melbourne Rowing Club** and **Rowing Victoria** granting me permission to attend and participate in Rowing Activities and as a condition of my participation, I agree to the terms set out in this document and agree to be bound by the rules, policies and regulations of the **Albert Park South Melbourne Rowing Club** and **Rowing Victoria** and RA.

### **2. MEMBERSHIP**

By virtue of my **Albert Park South Melbourne Rowing Club** membership I will be a member of **Rowing Victoria**. I acknowledge my membership will allow me to compete in any duly authorised Rowing Activity in Australia and I acknowledge and agree that I will be bound by and agree to comply with the constitutions of the bodies of which I am a member, and the Rules and Policies.

### **3. WARNING AND ACKNOWLEDGMENT OF RISKS, DANGERS & OBLIGATIONS**

- a. I am aware that rowing is dangerous and that by attending at or participating in a Rowing Activity I will be exposed to MANY SIGNIFICANT RISKS, including, without limitation, risks of death, physical and mental injury, disease, loss and damage, and economic loss. The risks of physical injury may include, without limitation, the risk of drowning, serious head, neck and spinal injuries, brain damage, serious injuries to virtually all my bones, joints, ligaments, muscles, tendons and other aspects of my muscular skeletal system, serious injury to virtually all my internal organs, and serious injury or impairment to other aspects of my body and to my general health and well-being. The risks of mental injury may include, without limitation, risk of serious psychological and psychiatric injury.
- b. I fully appreciate the nature and extent of all risks involved and by attending at or participating in a Rowing Activity I freely, voluntarily and absolutely ACCEPT ALL RISKS howsoever arising out of or in relation to my attendance at or participation in a Rowing Activity, whether caused by the negligence of a Rowing Organisation, or otherwise.
- c. I acknowledge that the assumption of risk and warning in this clause constitutes a "risk warning" in accordance with and for the purposes of the relevant legislation, (including the Civil Liability Act 2002 (NSW) and the Civil Liability Act (WA)).

### **4. FOREGOING RIGHTS UNDER RELEVANT LAW**

I acknowledge and agree that I have been given notice under ANNEXURE A that certain statutory rights and, in particular, guarantees under Commonwealth, State and Territory consumer laws have been excluded, restricted or modified including in the manner set out in ANNEXURE A.

### **5. INDEMNITY AND RELEASE**

In consideration of the acceptance of me as a participant in Rowing Activities:

- a. I AGREE TO INDEMNIFY AND KEEP INDEMNIFIED to the full extent permitted by law the Indemnitees and each of them in the following manner:
  1. i) that I participate in Rowing Activities at my sole risk and responsibility;
  2. ii) that I accept the venues as they stand with all or any defects hidden or exposed;
  3. iii) that I indemnify and hold harmless the Indemnitees, their respective servants, agents, officials and competitors against any Claims which may be made by me or on my behalf for or in respect of or arising out of my death or any injury loss or damage caused to me or my equipment whether caused by negligence, breach of contract or in any other manner whatsoever.
- b. I AGREE TO RELEASE to the full extent permitted by law the Indemnitees and each of them from all liability to me for any Claim that I may have or may have had but for this release, (whether arising under statute, from negligence, personal injury, psychological trauma, death, property damage or infringement of third party rights or otherwise) that arises as a result of any act, matter or thing done, permitted or omitted to be done by me or which is in anyway connected with my presence at or involvement in a Rowing Activity.

The release and indemnity provided by me in this declaration is in addition to, and will not in anyway limit the application of, the conditions of sale attaching to tickets, conditions of entry, conditions of credentials or any other applicable terms or conditions in respect of a Rowing Activity. A term of this release and indemnity 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.

## 6. COMPETENCY AND MEDICAL

I declare that I am competent for my involvement in any Rowing Activities and if I am unable to meet the required competencies that I will advise **Albert Park South Melbourne Rowing Club** in writing that I cannot meet the minimum standard.

## 7. MEDICAL

- a. I declare that I am and will continue to be medically and physically fit and able to participate in any Rowing Activity. I will immediately notify my **Albert Park South Melbourne Rowing Club** and in writing of any change to my fitness and ability to participate. I understand and accept the Rowing Organisations and Indemnitees will continue to rely upon this declaration as evidence of my fitness and ability to participate.
- b. I acknowledge and agree that if required, the Rowing Organisations and Indemnitees (or any of them) may arrange medical or hospital treatment (including without limitation, physical examination, first aid, defibrillation and safety boat and ambulance transportation) for me. I authorise such actions being taken by the Rowing Organisations and/or Indemnitees and agree to meet all costs associated with such action.

## 8. PRIVACY

I hereby consent to the collection of my personal information by the Rowing Organisations in connection with my involvement in any Rowing Activity and the use and disclosure of my personal information by the Rowing Organisations to other agencies and officials associated with a Rowing Activity for the purposes of conducting and managing the Rowing Activity. I understand that I may gain access to my personal information held by a Rowing Organisation by contacting that organisation and requesting access to my personal information. I understand that if I do not provide my personal information I may not be permitted to participate in a Rowing Activity.

## 9. PERSONAL HEALTH INFORMATION

I acknowledge, understand and agree that it is may necessary for RA to collect my personal health information (depending on the nature of my relationship with RA), and that the RA **Privacy Policy** governs how RA will collect, store and use the personal health information it collects from me.

If RV and/or **Albert Park South Melbourne Rowing Club** receive, collect, store and use my personal health information, then the manner in which that information is received, collected and stored by RV and/or **Albert Park South Melbourne Rowing Club** will be governed by the applicable Privacy Policy of RV and/or **Albert Park South Melbourne Rowing Club**, or in the event that no such Privacy Policy exists, by the Privacy Act 1988 (Cth).

## 10. RULES AND POLICIES

I acknowledge, understand and agree that it is a condition of my membership and participation in the Rowing Activity that I agree to be bound by, and subject to, the Rules and Policies, and jurisdiction of RA and RV, and the Rowing Organisations of which I become a member. Copies of all RA and RV Rules and Policies are available from the RA and RV websites and or by contacting RA or RV direct. I agree to cooperate fully with any inquiry, or investigation, conducted under or arising out of any of the Rules and Policies and any new policy or modifications to an existing policy will be effective immediately upon notice and incorporated into this Agreement.

## 11. PHOTOS/IMAGES

I acknowledge that RA, RV and **Albert Park South Melbourne Rowing Club** may make, create, store, record, transmit, reproduce photographs and electronic images of me and I consent that they, or their authorised third parties, may use these photographs or images for proper purpose without identification or compensation of any kind.

## 12. ANTI-DOPING

All participants are bound by the RA anti doping policy and thus understand they may be subject to drug testing. Testing conducted by the Australian Sports Anti-Doping Authority (ASADA) is in accordance with the ASADA Act and the National Anti-Doping Scheme. This involves the taking of a sample (any human biological fluid or tissue whether alive or otherwise, or any human breath) for the purpose of detecting the use of a Prohibited Drug or Doping Method. Any participant infringing RA's policy or refusing a drug test may be disqualified or otherwise dealt with in accordance with the terms of the anti-doping policy.

## 13. DEFINITIONS

In this application:

- a. **"Claim"** means and includes any action, suit, proceeding, claim, demand, damage, cost or expense however arising including but not limited to negligence but does not include a claim against a Rowing Organisation under any right expressly conferred by its constitution or regulation;
- b. **"CSAR"** means any club, school, association, college, university or regatta committee that is affiliated with or approved by [RX].
- c. **"Indemnitees"** means and includes the persons, organisations and bodies corporate whose names appear in Schedule 1.
- d. **"[RX]"** means [SSO];
- e. **"RA"** means Rowing Australia Limited;
- f. **"State Controlling Body"** (SCB) means a state or territory rowing association affiliated as a member of RA and includes [RX];
- g. **"Rowing Activity"** means performing or participating in any capacity in any trial, event, regatta or activity run by a Rowing Organisation and "Rowing Activities" means any two or more of them;
- h. **"Rowing Organisation"** means and includes RA, SCB, CSAR and where the context so permits, their respective directors, officers, members, servants or agents;
- i. **"Rules and Policies"** means any rules, policies, regulations and codes governing my membership, or attendance at or participation in a Rowing Activity and includes without limitation RA's Whole of Sport Policies available at <http://www.rowingaustralia.com.au/rowing-australia-policies/>
- j. **"State Controlling Body"** (SCB) means a state or territory rowing association affiliated as a member of RA and includes [RX].

**NOTE:** A minor cannot complete this undertaking and declaration other than in writing with the endorsement of the minor's parent or guardian.

### SCHEDULE 1

1. Rowing Australia
2. [SSO] Rowing Victoria
3. [CLUB] **Albert Park South Melbourne Rowing Club**
4. All other persons involved in the organisation, conduct and promotion of the Rowing Activities or construction or location of the facilities used in connection with or otherwise related to the Rowing Activities.
5. Each of the respective officers, employees, servants, agents, sponsors, successors and assignees of each of the above.

### ANNEXURE A

#### **RECREATIONAL SERVICES TO WHICH THE AUSTRALIAN CONSUMER LAW (COMMONWEALTH) APPLIES**

I agree that the provisions of Subdivision B of Division 1 of Part 3-2 of the Australian Consumer Law are excluded and do not apply to the supply of any recreational services (as defined in section 139A of the Competition and Consumer Act 2010 (Cth)) to me by the Rowing Organisation under or in connection with this agreement. I agree that the liability of the Rowing Organisations in relation to a recreational service for any:

- a. death;
- b. physical or mental injury (including the aggravation, acceleration or recurrence of such an injury); or
- c. contraction, aggravation or acceleration of a disease; or

- d. 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:
1. (i) that is or may be harmful or disadvantageous to the individual or community; or
  2. (ii) that may result in harm or disadvantage to the individual or community,

that I may suffer (or a person on whose behalf I acquire the services may suffer) is excluded.

### **FOR RECREATIONAL SERVICES PROVIDED IN VICTORIA**

#### **Warning under the Australian Consumer Law and Fair Trading Act 2012 (VIC)**

Under the Australian Consumer Law (Victoria), several statutory guarantees apply to the supply of certain goods and services. These guarantees mean that the suppliers named on this form (i.e. the Rowing Organisation) are required to ensure that the recreational services supplied to you-

- a. are rendered with due care and skill; and
- b. are reasonably fit for any purpose for 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 22 of the **Australian Consumer Law and Fair Trading Act 2012**, the suppliers are 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 suppliers under the **Australian Consumer Law and Fair Trading Act 2012** if you are killed or injured because the services 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**, in relation to an act or omission, means doing the act or omitting to an act with reckless disregard, with or without consciousness, for the consequences of the act or omission. See regulation 5 of the Australian Consumer Law and Fair Trading Regulations 2012 and section 22(3)(b) of the **Australian Consumer Law and Fair Trading Act 2012**.

### **FOR RECREATIONAL SERVICES PROVIDED IN SOUTH AUSTRALIA**

**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 1 ), 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 of the Rowing Organisations 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) a sporting activity or similar leisure-time pursuit; or (b) 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](http://www.ocba.sa.gov.au)

#### **FOR RECREATIONAL SERVICES AND RECREATIONAL ACTIVITIES PROVIDED IN NSW OR WESTERN AUSTRALIA**

I agree that the liability of the Rowing Organisations in relation to recreational services (as defined in section 139A of the Competition and Consumer Act 2010 (Cth)) and recreational activities (as defined in the Civil Liability Act 2002 (NSW) and the Civil Liability Act 2002 (WA)) for any:

1. d. death;
2. e. physical or mental injury (including the aggravation, acceleration or recurrence of such an injury); or
3. f. contraction, aggravation or acceleration of a disease; or
4. g. 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:
  1. (i) that is or may be harmful or disadvantageous to the individual or community; or
  2. (ii) that may result in harm or disadvantage to the individual or community,

that I may suffer (or a person on whose behalf I acquire the services may suffer) is EXCLUDED.

#### **FOR RECREATIONAL SERVICES PROVIDED IN NORTHERN TERRITORY**

I agree that the provisions of Part 3-2, Division 1, Subdivision B of the Australian Consumer Law (NT) do not apply to the supply of the services to me under this Agreement, and that the liability of the Rowing Organisations for any death or personal injury that I may suffer (or a person on whose behalf I acquire the services may suffer) for a failure to comply with a guarantee under that Subdivision is excluded. I acknowledge that this exclusion, restriction or modification has been disclosed to me in such a manner that I am aware of the general effect of the exclusion, restriction or modification and that I have had a reasonable opportunity to consider whether or not enter into the Agreement on that basis and have decided to enter into the Agreement.

#### **FOR RECREATIONAL SERVICES PROVIDED IN QUEENSLAND, TASMANIA OR AUSTRALIAN CAPITAL TERRITORY**

To the full extent permitted by law, I agree that the guarantees in the Australian Consumer Law (Qld), Australian Consumer Law (Tas) and Australian Consumer Law (ACT) including the provisions of Subdivision B of Division 1 of Part 3-2 are EXCLUDED and do not apply to the supply of any recreational services to me by the Rowing Organisations under or in connection with this agreement, and I RELEASE the Rowing Organisations from all liability for a failure to comply with a guarantee under those provisions.

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#### **Parental Consent Declaration (for applicants under 18 yrs of age)**

I have read, understood, acknowledge and agree to the terms above and the details provided in the application and I personally consent to the declaration and I warrant that all information provided is true and correct.

I as the parent or guardian of the named applicant expressly agree to be responsible for the applicant's behaviour and agree to personally accept the conditions set out in this membership application and declaration.