

## **PARTICIPATION AGREEMENT**

### **VICTORIAN SCULLING**

### **ASSOCIATION INC - WINTER SCULLING SERIES**

*Warning: This is an important document which affects your legal rights and obligations. Please read it carefully and do not agree to it unless you are satisfied you understand it.*

For and in consideration of the Victorian Sculling Association Inc (VSA) granting me permission to attend and participate in the Winter Sculling Series (Winter Series) and as a condition of entry, I HEREBY AGREE to the following terms and conditions:

#### **1. Acceptance of Risks and Acknowledgement of Requirements**

1.1. I am aware that the Winter Series is dangerous and that by attending at or participating in the Winter Series 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.

The risks associated with my attendance at or participation in the Winter Series include, without limitation, the risk that I may suffer harm as a result of:

- a) collisions, including but not limited to collisions with other participants, spectators, other persons, vehicles, boats, watercraft, jetties, landings, litter traps, property, bridges, riverside infrastructure, flotsam, jetsam, lagan, derelict, submerged objects, snags, and trees and other things in the natural environment;
- b) falls;
- c) exhaustion;
- d) dehydration;
- e) hypothermia from cold water exposure and other causes;
- f) oxygen deprivation and drowning;
- g) allergic reactions;
- h) infections;
- i) grazes, cuts, abrasions, wounds and blisters;
- j) bites from snakes, spiders, geese, swans and other dangerous creatures;
- k) aggravation, acceleration or recurrence of an existing injury or disease; and
- l) many other causes.

1.2. I fully appreciate the nature and extent of all risks involved and by attending at or participating in the Winter Series I freely, voluntarily and absolutely ACCEPT ALL RISKS howsoever arising out of or in relation to my attendance at or participation in the Winter Series, whether caused by the

negligence of VSA and the Associated Entities, or otherwise.

1.3 By entering the Winter Series I vouch that I can swim 50m fully clothed, have hull and liability insurance for any boat that I use, and have no known medical conditions which would preclude me from racing.

I am also aware of the requirements of the Rowing Victoria Safety Management Plan under which my club operates, including that my scull must have adequate buoyancy to support me, must have an approved bow ball in good condition firmly affixed, that my heel ties if I use fitted shoes are effective, and that the buttons on my oars are secure and properly set.

#### **2. Waiver, Release and Indemnity**

2.1. To the full extent permitted by law, I agree to WAIVE all and any claim, right or cause of action which I or my heirs, successors, executors, administrators, agents and assigns might otherwise have against any one or more of VSA and the Associated Entities for or arising out of my death or physical or mental injury, disease, loss and damage, or economic loss of any description whatsoever which I may suffer or sustain in the course of or consequential upon or incidental to my attendance at or participation in the Winter Series, whether caused by the negligence of VSA and the Associated Entities, or otherwise.

2.2. To the full extent permitted by law, I agree to RELEASE AND DISCHARGE VSA and the Associated Entities from all liability to me, my personal representatives, heirs and next of kin, for my death or physical or mental injury, disease, loss and damage, or economic loss of any description whatsoever which I may suffer or sustain in the course of or consequential upon or incidental to my attendance at or participation in the Winter Series, whether caused by the negligence of VSA and the Associated Entities, or otherwise.

2.3. To the full extent permitted by law, I agree to INDEMNIFY AND HOLD HARMLESS VSA and the Associated Entities against all claims, demands, actions, suits, proceedings, damages, costs, losses, expenses or liabilities of any kind, including legal costs, that may be brought or made by any person for death or physical or mental injury, disease, loss and damage, or economic loss of any description whatsoever arising out of or as a consequence of my acts or omissions in the course of or consequential upon or incidental to my attendance at or participation in the Winter Series, whether caused by the negligence of VSA and the Associated Entities, or otherwise.

#### **3. No Consumer Guarantees or Implied Warranties**

3.1. To the full extent permitted by law (including the limits in section 139A of the Competition and Consumer Act 2010 (Cth)), I agree that the provisions of Subdivision B of Division 1 of Part 3-2 of the Australian Consumer Law and any similar state legislative provisions are EXCLUDED and do not apply to the supply of any services to me by VSA or the Associated Entities under or in connection with this Agreement, and I RELEASE VSA and the Associated Entities

from all liability for a failure to comply with a guarantee under those provisions.

3.2. In clause 3, 'Australian Consumer Law' has the meaning under the Competition and Consumer Act 2010 (Cth).

#### **4. Warning under the Fair Trading Act 1999 (VIC)**

4.1. 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 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 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 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 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.

4.2. For the purpose of this clause, the supplier is VSA.

#### **5. Rules and Directions**

5.1. I agree:

- a) to abide by any rules, regulations and codes governing the Winter Series that are notified to me; and
- b) to obey all lawful and reasonable directions relating to my attendance at and participation in the Winter Series that are given to me, by VSA, the Associated Entities, or any other person, corporation or body involved or engaged in organisation and running of the Winter Series from time to time, including without limitation by the race and/or safety directors.

5.2. Rules, regulations and codes are deemed to be notified to me if they are published on VSA's website.

#### **6. Medical Information and Treatment**

6.1. I understand that I should not participate in the Winter Series unless I have trained appropriately, and a qualified medical practitioner has verified my medical and physical condition.

6.2. I agree that I remain responsible for my own health care.

6.3. I agree that in the event that I become ill or injured in the course of my attendance at or participation in the Winter Series, I will consent to receive any medical treatment, including without limitation physical examination, first aid, defibrillation and safety boat and ambulance transportation that VSA or Associated Entities think desirable.

**7. Personal Information and Publicity**

- 7.1. I agree that:
  - a) VSA and Associated Entities may collect and store my Personal Information;
  - b) I will disclose Personal Information to VSA and Associated Entities at their request;
  - c) VSA and Associated Entities may disclose, and may allow or authorise any other person, corporation or body to disclose, my Personal Information for Commercial Purposes, provided that such disclosure relates to my involvement in the Winter Series;
  - d) VSA and Associated Entities may use, and may allow or authorise any other person, corporation or body to use, my name, image, photograph, likeness, reputation and identity for Commercial Purposes, provided that such use relates to my involvement in the Winter Series; and
  - e) I may be filmed, televised, photographed and otherwise recorded and that such recordings may be used for Commercial Purposes, provided that such use relates to my involvement in the Winter Series.

7.2. I agree that collection, storage, disclosure and use permitted under clause 7.1 will be without payment to me, unless VSA and I otherwise agree in writing.

**8. Equipment and Apparel**

- 8.1. I acknowledge and agree that:
  - a) I will wear only such items of apparel, and use only such equipment, when participating in the Winter Series, that may be approved of or prescribed by VSA and Associated Entities;
  - b) I will wear my own items of apparel, and use my own equipment, when participating in the Winter Series, except when such items of apparel and equipment has been issued to me by VSA and Associated Entities;
  - c) I have sole responsibility for the condition of my equipment, including the equipment that has been issued to me by VSA and Associated Entities; and
  - d) I have sole responsibility for my own possessions, items of apparel and equipment, including the items of apparel and equipment that have been issued to me by VSA and Associated Entities.

**9. Safety and Insurance**

9.1. I acknowledge and agree that safety precautions undertaken by VSA and Associated Entities (such as course supervision, safety briefings, and equipment safety checks) are a service to me and not a guarantee of my safety.

9.2. I acknowledge and agree that any insurance cover affected for participants in the Winter Series may not cover me for any or all death, injury, loss or damage sustained by me.

**10. The Winter Series**

- I acknowledge and agree that:
- a) VSA and Associated Entities may alter any aspect of the Winter Series, or cancel the Winter Series, or any race of the Winter Series, for any reason whatsoever at any time;
  - b) VSA and Associated Entities may reject or cancel my entry or disqualify me from the Winter Series at any time if I breach this Agreement;
  - c) my entry fee will not be refunded in any circumstance; and
  - d) my entry is non-transferable.

**11. Governing Law**

11.1. I agree that this Agreement shall be governed by and construed according to the law of Victoria, Australia, and I submit to the non-exclusive jurisdiction of the courts of Victoria, Australia.

**12. Defined Terms and Interpretation**

- 12.1. In this Agreement, unless the contrary intention appears or the context otherwise requires, these words have the following meanings:
- a) Associated Entities means all persons, corporations and entities other than VSA that are in any way connected with organising, promoting, sponsoring, supporting, running or staging the Winter Series or receiving benefits from the Winter Series, and includes without limitation the Officers, Committee Members and employees of VSA, charities, sponsors, volunteers, contractors, service providers, safety officials, and land owners, lessees, licensees and occupiers.
  - b) Winter Series means the Winter Sculling Series.
  - c) Commercial Purposes means commercial purposes related to the Winter Series and includes, without limitation, licensing, endorsement, advertising, promotion, merchandising, memorabilia, events, marketing, sponsorship, reporting and production and supply of any film of the Winter Series.
  - d) Intellectual Property Rights include, without limitation, rights subsisting in copyright, trademarks, trade names, patents, logos, designs, trade secrets, images (including photographs, video and film), service marks and performance rights.
  - e) VSA means the Victorian Sculling Association Inc.
  - f) Personal Information means information that is of a general and biographical nature only, and includes without limitation my name, email address, phone number, place of residence, occupation, family, age, height, weight, and past achievements.
- 12.2. In this Agreement, unless the context otherwise requires, a reference to a person, corporation or entity includes a reference to its officers, committee members, servants, employees, agents and representatives.

**13. Execution**

I, the undersigned state that I have read and understood this Participation Agreement (including the warning, indemnity and release) and agree to the terms and conditions as stated.

Full name: (print)  
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Age: -----

Signature:  
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Date:-----

**14. Third Party indemnity where participant is under 18 years of age \***

14.1 I, being the parent or guardian of the person signing as a participant in section 13, hereby acknowledge:

- a) I have read the whole of this document and understand it,
- b) I consent to the rowing activities,
- c) I am aware of the risks, dangers and obligations.

14.2 In consideration of the participant being accepted as a participant in the Wintersculling Series I hereby indemnify and release the VSA and Associated Entities in the same manner and to the same effect as if I were the participant and agree to personally accept all terms and conditions and obligations set out in this declaration.

Name: (print)  
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Signature:  
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Date: -----

**Participants aged less than 18 years will NOT be permitted to race unless this section is completed.**