

# PORSCHE

## RELEASE AND INDEMNITY – SYDNEY MOTORSPORT PARK TRACK DAY

### IMPORTANT INFORMATION

**Is participating in the Activity risky?**

The Activity is inherently dangerous and there is significant risk of injury, disability or death. If you do not wish to take the risks of the Activity, then you should **not** participate in the Activity. For more information, see "Risks of the Activity" in the table at the beginning of this document.

**Do I release PRGA or any other Organiser from their liability?**

Yes. You release and discharge PRGA and all other Organisers from all Losses and Claims that you may have against them for any personal injuries, death, property damage, or theft, resulting directly or indirectly from your participation in the Activity. Neither PRGA nor any other Organiser will be liable to you for any of these released matters. For more information, see clauses 5 and 6.

**Do I provide an indemnity to PRGA or any other Organiser?**

You indemnify PRGA and each other Organiser from all Losses, third party claims, demands and liabilities which PRGA or any other Organiser may suffer as a result of, arising out of or in connection with any of the released matters. For more information, see clause 7.

**Am I liable for any matters in relation to the Activity?**

Yes. You are solely liable for any losses you suffer or incur in connection with your participation in the Activity. Your liability extends to losses caused by you to others, including any Organiser. For more information, see clause 4.

**Am I forgoing any statutory rights?**

Yes. By signing this document, you will be forgoing statutory rights (including your rights under the Competition and Consumer Act 2010 (Cth) and equivalent State laws), to the fullest extent these rights can be excluded. For more information see clauses 10 to 19.

### This release and indemnity is given

<b>Participant:</b> <input type="checkbox"/> <b>Observer:</b> <input type="checkbox"/>	
<b>By:</b>	<b>Name:</b> _____ <i>(Participant or Observer)</i>
<b>Address:</b> _____	
<b>Driver's Licence #:</b> _____	<b>DOB:</b> _____
<b>Contact phone:</b> _____	<b>Email address:</b> _____
<b>Emergency contact name:</b> _____	<b>Emergency contact phone:</b> _____

In favour of:    **Each Organiser (as defined below)**

### Background:

- A.** Porsche Retail Group Australia Pty Ltd ACN 006 359 459 trading as Porsche Centre Sydney South (**PRGA**) has invited the Participant to a training program at high speed in a vehicle in your possession (**Vehicle**) at the Location specified in the table below (**Activity**).
- B.** In consideration of PRGA allowing the Participant and/or Observer to undertake the Activity, the Participant and/or Observer has agreed to provide this document in favour of each of the Organisers.

I agree to the terms set out in the table below:

<p><b><u>I MUST NOT PARTICIPATE IN THE ACTIVITY UNLESS I:</u></b></p> <ul style="list-style-type: none"> <li>• HAVE A CURRENT VALID AUSTRALIAN DRIVER'S LICENCE OR A CURRENT VALID OVERSEAS DRIVER'S LICENCE RECOGNISED BY AUSTRALIAN STATES &amp; TERRITORIES;</li> <li>• PROVIDE AND WEAR AND/OR USE AT A MINIMUM FULLY ENCLOSED FLAT SOLED SHOES DURING THE ACTIVITY; AND</li> <li>• WEAR NON-FLAMMABLE CLOTHING THAT FULLY COVERS FLESH FROM ANKLES UP TO AND INCLUDING THE NECK &amp; WRISTS. Please note, non-flammable clothing is recommended for any events at a track facility.</li> </ul>	<p><b><u>I AM NOT AFFECTED BY, AND MUST NOT PARTICIPATE IN THE ACTIVITY IF I AM AFFECTED BY:</u></b></p> <ul style="list-style-type: none"> <li>• RECENT STROKE</li> <li>• SURGERY OR ILLNESS</li> <li>• HEART OR RESPIRATORY CONDITIONS, OR CARDIAC DISEASE</li> <li>• NECK OR BACK PAIN, AILMENTS OR WEAKNESS</li> <li>• BROKEN BONES OR JOINT OR LIMB AILMENTS</li> <li>• HIGH BLOOD PRESSURE OR ANEURYSMS</li> <li>• THE INFLUENCE OF ILLICIT DRUGS OR ALCOHOL (BLOOD ALCOHOL CONTENT OF 0.00%)</li> <li>• DIABETES (ON INSULIN THERAPY)</li> <li>• EPILEPSY</li> <li>• PRESCRIPTION MEDICATION THAT MAY ADVERSELY AFFECT MY PARTICIPATION IN THE ACTIVITY</li> <li>• ANY OTHER PRE-EXISTING MEDICAL OR PHYSICAL CONDITION THAT PREVENTS SAFE PARTICIPATION, INCLUDING PREGNANCY,</li> </ul> <p>UNLESS I PROVIDE WRITTEN CLEARANCE TO PARTICPATE FROM MY PHYSICIAN.</p>
<p><b>COVID-19</b></p>	<p>The Activity will be held in accordance with the local State Government Covid-19 rules and regulations which are in place at the time of the event. You agree to comply with any applicable rules and regulations together with any reasonable directions which may be issued by PRGA to ensure the safety of all participants of the event.</p>

The following words have the following meanings:

<p><b>Activity</b></p>	<p>As defined in Recital A on the first page.</p>
<p><b>Claim</b></p>	<p>Any action, suit, proceedings, claim, demand or cause of action however arising, including but not limited to negligence, but does not include a claim under any insurance policy by any person expressly entitled to make a claim under that insurance policy.</p>
<p><b>Dates</b></p>	<p>Tuesday 26 March</p>
<p><b>Locations or Venues:</b></p>	<p>Sydney Motorsport Park, Eastern Creek, New South Wales (SMSP).</p>

<b>Loss</b>	<p>Each of the following:</p> <ul style="list-style-type: none"> <li>- any Claim for compensation;</li> <li>- any injury, damage, loss or liability;</li> <li>- any loss of income (salary, wages, etc), financial loss or other forms of economic loss;</li> <li>- any cost (including legal costs on a solicitor and client basis), charge, expense, outgoing, payment or other expenditure of any nature.</li> </ul>
<b>Organisers:</b>	<p>Porsche Retail Group Australia Pty Ltd (<b>PRGA</b>), the Australian Racing Drivers' Club (for events at the SMSP which it owns), and each of their respective directors, officers, employees, agents, contractors and affiliated companies and their respective personnel, and assigns and all other persons involved in the conduct, promotion and organisation of the Activity, including:</p> <ul style="list-style-type: none"> <li>- officials, marshals, rescue, medical staff, the drivers and passengers;</li> <li>- suppliers of infrastructure and other equipment used to enable the event and the Activity to take place; and</li> <li>- sponsors of the Activity.</li> </ul>
<b>Participant/Observer:</b>	<p>The person who is giving this release and indemnity to the Organisers as identified on the first page of this document and who is also referred to as "I", "me" or "my" in this document.</p>
<b>Risks of the Activity:</b>	<p><b>The Activity is inherently dangerous and there is significant risk of injury, disability or death.</b></p> <p><b>The risks of the Activity include (but are not limited to):</b></p> <ul style="list-style-type: none"> <li>- The Vehicle or parts of it colliding with other vehicles, persons or fixed or moving objects</li> <li>- Other participants, including persons in other vehicles, acting negligently, dangerously or with lack of skill</li> <li>- Equipment malfunction, Vehicle mechanical failure or fire</li> <li>- Failure of safety equipment</li> <li>- Defects at the Venue including dangerously positioned debris or equipment or failure or unsuitability of facilities at the Venue (including grand-stands, fences and guard rails)</li> <li>- Negligence of any of the Organisers, including failure to protect you from risks and hazards of the Activity</li> <li>- Acts of violence and other harmful acts (whether intentional or inadvertent) committed by any persons, including those attending the Venue or participating in the Activity.</li> <li>- Effects of weather or other surrounding conditions</li> </ul> <p><b>By participating in the Activity you are at significant risk of suffering injury including (but not limited to):</b></p> <ul style="list-style-type: none"> <li>- Neck, back or other serious injury or death</li> <li>- Brain damage</li> <li>- Heart attack or heart failure</li> <li>- Broken bones or joint or limb injury</li> <li>- Blackout or fainting</li> </ul>

	<ul style="list-style-type: none"> <li>- Burns, cuts and abrasions</li> <li>- Feelings of claustrophobia</li> <li>- Physical and mental injury, pain and suffering, emotional distress, trauma, illness, death</li> <li>- Damage to your clothes and personal equipment and property, including, but not limited to, the Vehicle</li> </ul>
<b>Vehicle</b>	As defined in Recital A on the first page.

**IF YOU DO NOT WISH TO TAKE THE RISKS OF THE ACTIVITY, THEN DO NOT PARTICIPATE IN THE ACTIVITY.**

I agree that this document constitutes a binding agreement between me, PRGA and the other Organisers (in addition to any other agreement between me, PRGA and any other Organisers) under which I give up substantial rights (**Activity Release and Indemnity**). I am giving this Activity Release and Indemnity in consideration of PRGA and the other Organisers granting me the right to attend and participate in the Activity and providing the Activity to me. To the maximum extent permitted by law, I agree that:

**Acknowledgement and Assumption of Risks and Liabilities**

1. I have read and understood each of the Risks of the Activity described above. I also understand that participating in the Activity has inherent and obvious risks in addition to those described in the Risks of the Activity.
2. The Activity involves the Organisers also providing me a recreational service that:
  - (a) is a leisure time pursuit;
  - (b) involves a significant degree of physical exertion or physical risk; and
  - (c) is undertaken for the purpose of recreation, enjoyment or leisure.
3. I fully and voluntarily accept all of the Risks of the Activity and all inherent and obvious risks from participating in the Activity. I voluntarily and solely assume all of the risks involved in the Activity and my participation in it, whether or not described in this document and acknowledge and agree that:
  - (a) my participation in the Activity is solely at me own risk;
  - (b) participation in the Activity may cause me personal injury (physical or mental), death, harm or property damage as a result of which I may suffer substantial Losses.
4. I acknowledge and agree that I am solely responsible and liable for:
  - (a) any Losses I suffer or incur in relation to, arising out of or in connection with my participation in the Activity without being able to make a Claim against or seek any recovery from PRGA or any of the other Organisers; and
  - (b) any Losses I cause to anybody else, including any Organiser, and any damage I cause to anybody else's property, including any Organiser's property, and any damage I cause to my own property, including but not limited to the Vehicle.

**Exclusion of Liability, Release and Indemnity**

5. To the extent permitted by law and subject to the other provisions of this document, I irrevocably and unconditionally release and forever discharge (for myself and anyone acting on my behalf) PRGA and all other Organisers from all Losses including, without limitation, all Claims for negligent acts or omissions that I (or anyone acting on my behalf) may have against them for any personal injuries, including my death, any injury to me or the injury or death of anybody else with me, and any damages to, destruction of, theft of my or someone else's property or equipment, including but not limited to the Vehicle, directly or indirectly caused by or arising out of or in connection with:
  - (a) my participation in the Activity;
  - (b) any breach by me of the terms of this document or the Terms and Conditions of my participation in the Activity; or
  - (c) any warranties or representations I give being untrue or inaccurate in any way,

whether or not such Loss was also caused or contributed to by the negligence of PRGA or any other Organiser (**Released Matters**).

6. I acknowledge and agree, that neither PRGA nor any other Organiser is liable to me (or anyone acting on my behalf) for any of the Released Matters.
7. I indemnify, defend and hold harmless PRGA and each other Organiser from all Losses, third party claims, demands and liabilities which PRGA or any other Organiser may suffer as a result of, arising out of or in connection with any of the Released Matters.
8. Vehicle, third party and personal insurance is my sole responsibility.

**WARNING – FORGOING RIGHTS UNDER THE COMPETITION AND CONSUMER ACT 2010 (Cth)**

9. PRGA and the other Organisers acknowledge that each indemnity and exclusion of liability in this document is subject to any law which forbids that indemnity or exclusion of liability, including under the Australian Consumer Law (which is set out in Schedule 2 of the Competition and Consumer Act 2010 (Cth) (**ACL**)). PRGA and the other Organisers agree that each provision in this document will only operate to the extent permitted by the ACL.
10. Under the ACL, several consumer guarantees are implied into contracts for the supply of certain goods and services. To the extent permitted by law (including without limitation section 139A of the Competition and Consumer Act 2010 (Cth), I agree that the application of all or any of the provisions of Subdivision B of Division 1 of Part 3-2 of the ACL (i.e. guarantees relating to the supply of services), the exercise of rights conferred by those provisions, and any liability of PRGA and the other Organisers for a failure to comply with any guarantee that applies to the supply, are excluded and do not apply. For the avoidance of doubt, this exclusion is limited to liability for:
  - (a) Death; or
  - (b) physical or mental injury of an individual (including the aggravation, acceleration or recurrence of such an injury of the individual); or
  - (c) the contraction, aggravation or acceleration of a disease of an individual; or
  - (d) 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 community or that may result in harm or disadvantage to the individual or the community.
11. This exclusion does not apply to significant personal injury suffered by a person that is caused by the reckless conduct of PRGA or any of the other Organisers (i.e. if PRGA or any of the other Organisers 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).

**WARNING – FORGOING RIGHTS UNDER THE AUSTRALIAN CONSUMER LAW AND FAIR TRADING ACT 2012 (VIC)**

12. If I sign this document, I will be agreeing that my rights to sue PRGA and the other Organisers under the Australian Consumer Law and Fair Trading Act 2012 (VIC) are excluded, restricted or modified in the way set out in this document, if I am killed or injured because the services provided were not in accordance with the statutory guarantees outlined below.
13. Under the Australian Consumer Law (Victoria), several statutory guarantees apply to the supply of certain goods and services. These guarantees mean that PRGA and the other Organisers are required to ensure that the recreational services they supply to me:
  - (a) are rendered with due care and skill; and
  - (b) are reasonably fit for any purpose which I, either expressly or by implication, make known to them; and
  - (c) might reasonably be expected to achieve any result I have made known to them.
14. Under section 22 of the Australian Consumer Law and Fair Trading Act 2012 the exclusion of these statutory guarantees is brought to my attention by this document and PRGA and the other Organisers are entitled to ask me to agree that these guarantees do not apply to services provided to me. I understand that if I sign this document, I am agreeing that any rights to sue PRGA and the other Organisers under the Australian Consumer Law and Fair Trading Act 2012 if I am 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 document.

15. **Note:** The change to my rights, as set out in this document, does not apply if my death or injury is due to gross negligence on the part of PRGA and the other Organisers. **Gross negligence**, in relation to an act or omission, means doing the act or omitting to do 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.

**WARNING - FORGOING RIGHTS UNDER THE AUSTRALIAN CONSUMER LAW (SA)**

16. Under sections 60 and 61 of The Australian Consumer Law (SA), if a person in trade or commerce supplies me with services (including recreational services), there is a statutory guarantee that those services:

- (a) will be rendered with due care and skill; and
- (b) 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) 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.

17. Under section 42 of the Fair Trading Act 1987 (SA), the supplier of recreational services is entitled to ask me to agree to exclude, restrict or modify their liability for any personal injury suffered by me or another person for whom, or on whose behalf, I am acquiring the services (a third party consumer). If I sign this document, I am agreeing to exclude, restrict or modify the supplier's liability with the result that compensation may not be payable if I or the third party consumer suffer personal injury.

18. **IMPORTANT:** I do not have to agree to exclude, restrict or modify my rights by signing this document. PRGA and the other Organisers may refuse to provide me with the services if I do not agree to exclude, restrict or modify my rights by signing this document. Even if I sign this document, I may still have further legal rights against PRGA and the other Organisers.

**Governing law and jurisdiction**

19. This document is governed by the laws in force in Victoria and any disputes arising out of or in connection with this document will be brought before and be subject to the non-exclusive jurisdiction of the responsible court in Victoria.

**DECLARATION**

I declare that I have read and understood this document and agree to its contents, including the assumption of risk, the provision of the releases and indemnity and the exclusion of liability. I acknowledge and understand that I am giving up substantial rights by agreeing to the terms and conditions of this document and confirm that, prior to signing below, I have read and understood the terms and conditions of this document and their legal implications and consequences.

Participant/Observer signature:	Date:
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