



Hang Gliding Federation of Australia

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WARNING, RELEASE, INDEMNITY AND ASSUMPTION OF RISK

THIS **WARNING, RELEASE, INDEMNITY AND ASSUMPTION OF RISK** MUST BE ACCEPTED, INITIALLED, SIGNED, DATED AND WITNESSED WHERE INDICATED AND LODGED WITH THE HANG GLIDING FEDERATION OF AUSTRALIA (HGFA) OFFICE AS A CONDITION OF MEMBERSHIP OF THE HGFA

Please read carefully and ensure that you have adequate personal insurance

RISK WARNING

- 1.1 Hang gliding, powered hang gliding, paragliding, powered paragliding and weightshift microlighting, solely or in combination (the Activity) is a dangerous recreational activity which involves inherent, incidental and significant risks, including but not limited to, loss of control of an aircraft or equipment, uncontrolled descent, collision with objects (whether animate or inanimate) or property, collision with other persons, personal misjudgement, failure of equipment. The risks in participating in the Activity may result in or materialise in harm including physical harm such as injury, disability or death.

Risk Warning acknowledgement:

Applicant: _____ [Applicant's full name] Witness: _____ [Witness' full name]

[Applicant's signature] _____ [Witness' signature]

Date: _____ Date: _____

OBVIOUS RISK NOTICE

- 1.2 As described above, the Activity involves a significant risk of physical harm and is therefore a "**dangerous**" recreational activity which carries an obvious risk, including risk of serious injury. The Applicant acknowledges that HGFA is not liable in negligence for breach of duty of care or failure to exercise reasonable care and skill, breach of contract for breach of an express or implied warranty, obligation, term or contractual duty of care, or pursuant to any statute, or statutory warranty or implied term, as a result of the materialisation of the obvious risk of the Activity engaged in by the Applicant.

Obvious Risk Acknowledgement:

Applicant: _____ [Applicant's full name] Witness: _____ [Witness' full name]

[Applicant's signature] _____ [Witness' signature]

Date: _____ Date: _____

I acknowledge that I am about to engage in a hazardous and dangerous activity and I have been fully warned of the risks involved. **Applicant to initial:** _____



Definitions

Applicant to initial: _____

Activity means: hang gliding, powered hang gliding, paragliding, powered paragliding and weightshift, microlighting, solely or in combination.

Applicant means the person whose details are indicated in:

- (a) the following fields of the Introductory Trainee Pilot Membership Application (**Application Form**): "given name", "surname", "address", "post code", "birth date", "applicant's signature", "application date" and "membership no."; and
- (b) "Name of parent or guardian", "full address", "signature", "date" and "relationship with participant".

Application Form means the Trainee Pilot Membership Application

Claim means:

- (a) any originating process (in a legal proceeding or arbitration), cross claim or counter claim or third party or similar notice claiming compensation, damages, punitive damages or aggravated damages against HGFA; or
- (b) any written demand from you or anyone related or in any way connected to you claiming compensation, damages, punitive damages or aggravated damages from or against HGFA.

HGFA means Hang Gliding Federation of Australia and includes its officers, employees, volunteers and agents.

Risk Warning means the contents of paragraph 1.1 above.

Obvious Risk Notice means the contents of paragraph 1.2 above.

Terms and Conditions

Applicant to initial: _____

1. The Applicant acknowledges that he or she has read the Risk Warning.
2. The Applicant acknowledges that he or she has read the Obvious Risk Notice.
3. In consideration for the participation in the Activity, the Applicant agrees:
 - (a) to be bound by the contents of this document and its contents which includes the document titled "Introductory Trainee Pilot Membership Application" (Application Form) and the contents contained therein;
 - (b) that he or she has capacity to enter into this document and the Application Form; and
 - (c) to pay the HGFA ITP membership fee as stated on the Application Form.

Voluntary Assumption of Risk

4. The Applicant wholly accepts and assumes all liability, now and in the future, for the possibility of any risks, dangers and hazards associated with the participation in the Activity and acknowledges that the Applicant's participation in the Activity may result in, or materialise in, injury or death.
5. The Applicant releases and holds harmless the HGFA for all liability, now and in the future, arising out of the Applicant's participation in the Activity.

Liability Waiver

6. The Applicant acknowledges and agrees that it hereby waives any liability for a breach of contractual, statutory or tortious duty of care for recreational activities and the HGFA shall not be liable to any person including the Applicant for any liability with respect to any Claim, whether that liability is based in:
 - (a) negligence for breach of duty of care or failure to exercise reasonable care and skill;



- (b) breach of contract for breach of any express or implied warranty, obligation, term or contractual duty of care; or
- (c) breach of any statute, or statutory warranty or implied term

for any injury, loss, damage, death, economic loss whatsoever suffered by the Applicant or any person, whether consequential, direct or indirect, caused by or connected with the Applicant's participation in the Activity.

7. The Applicant waives any and all Claims or rights, whether at law or statute, he or she may have in the future against, the owner or occupier (of any type of property, including real property), the operator and any supplier of services, their directors, volunteers, employees, agents, suppliers, contractors and insurers arising from or relating to the Activity.

Liability Release and Indemnity

8. The Applicant releases, indemnifies and holds HGFA harmless from or against all Claims and all liability of any nature suffered or incurred by HGFA or the Applicant, howsoever caused and by whomever brought as a result of or arising out of or in connection with the Activity including any Claims or liability based in:
- (a) negligence for breach of duty of care or failure to exercise reasonable care and skill;
 - (b) breach of contract for breach of any express or implied warranty, obligation, term or contractual duty of care; or
 - (c) breach of any statute, or statutory warranty or implied term.

General Terms and Conditions

9. The contents of this document shall be a complete bar to any action arising out of participation in the Activity against the owner or occupier (of any type of property, including real property), the operator and any supplier of services, their directors, employees, agents, suppliers, contractors and insurers.
10. In the case of a warranty implied by Part 3-2 Division 1 Subdivision B of Schedule 2 of the *Competition and Consumer Act 2010* (Cth) such warranty is excluded in respect of liability for death or personal injury. In the case of any warranty that cannot be excluded the liability shall be limited to the cost of supplying the services again.
11. Any other warranty or term save for those contemplated by clause 9, whether express or implied, statutory or otherwise, including any warranty that services will be rendered with reasonable care, or to any similar or like effect, is excluded. In the case of any warranty which cannot be excluded the liability shall be limited to the cost of re-supplying the services.
12. The contents of this document shall also apply to any subsequent participation in the activity and the subsequent provision of services by the operator and shall be binding upon my heirs, next-of-kin, dependants, executors, administrators and assigns.
13. The contents of this document shall also apply to any related or associated activity, supply of goods, provision of services, carriage or transportation to or from or connected with the activity, and preparation or training and shall also operate for the benefit of all other suppliers, their directors, employees, agents and contractors.
14. By becoming a member of the HGFA, the governing body, which administrates the Activity, I undertake to comply and in any event I agree that:
- (a) I will be bound by the rules and constitution of the governing body;
 - (b) the governing body and all members of the governing body will be entitled to the benefits, exclusions and limitations of this agreement as if parties; and
 - (c) I will not commence any proceeding against the governing body or any other member as a result of participating in the activity, now or in the future.

Applicant to initial: _____

15. This document shall be governed by the laws of the state of **New South Wales** in Australia. In the event of any action arising out of or connected with participation in the activity the action shall be commenced only in the Courts of New South Wales and shall be extinguished, abandoned or discontinued if not commenced within one year of the date of participation.
16. I also undertake and acknowledge that I have not relied upon any representation or statement made in connection with the activity or provision of services. This acknowledgement pre-empts anything else on which I might otherwise rely and will operate against any contrary assertion.
17. If any part of this document shall be contrary to law or void, in whole or in part, it shall be read down to the extent necessary in the relevant jurisdiction for its validity but otherwise shall operate to the full extent permitted by law in each and every jurisdiction. There shall be no amendment or variation other than in writing signed by the HGFA Operations Manager.
18. I fully understand that the purpose of this document is to exclude to the maximum extent permitted by law all liability for death or injury and I agree that this document must be interpreted to achieve that purpose, and in any dispute, must be interpreted against me and in favour of the operator. I acknowledge and understand that personal accident and life insurance is obtainable and waive any claim through me, by any insurer in my name or on my behalf.
19. For the purposes of the *Privacy Act 1988* (Cth), I agree that any information concerning me within the records of the Hang Gliding Federation of Australia (HGFA) may be supplied to a current insurer or insurance broker, to a past HGFA insurer or insurance broker in respect of a claim or possible claim, to an insurer or an insurance broker so that the HGFA may obtain insurance, to the Civil Aviation Safety Authority (CASA) and other Federal and State Government bodies as required for the proper administration of our flying activities, and to Recreation Aircraft Australia (**RAAus**) in regard to the movement of Members and Registered Aircraft between RAAus and the HGFA.

Applicant: _____
 [Applicant's full name]

Witness: _____
 [Witness' full name]

 [Applicant's signature]
 Date: _____

 [Witness' signature]
 Date: _____

In the case of a participant under the age of 18:

- In consideration for permitting the participant to engage in the Activity, I warrant that I have full and complete authority to execute this as a binding and enforceable document and I release and indemnify the owner or occupier (of any type of property, including real property), the HGFA, the operator and any supplier of services and their directors, employees, agents, contractors, suppliers and insurers against any claim, liability, loss or damage arising out of the participation in the Activity;
- I am over the age of 18; and
- I have read and understood the **Risk Warning** and **Obvious Risk Notice**, which form part of this document, and have conveyed them to the participant.

Name of Parent or Guardian: _____ Relationship: _____

Full Address: _____

Signature: _____ Date: _____

