

Whereas

- A. GRANDTAC offers the Activities for people to participate in.
- B. The Participant wishes participate in the Activities.
- C. The Activities are potentially Dangerous Recreational Activities and involve Obvious Risks and GRANDTAC requires the Participant to enter into the Deed to record the terms and conditions that GRANDTAC will permit the Participant to participate in the Activities.

It is Agreed

1 Express Acceptance of Risk

1.1 The Participant acknowledges that:-

- (1) the Activities are potentially Dangerous Recreational Activities and involve Obvious Risks.
- (2) the Participant is engaging in the Activities for enjoyment, relaxation or leisure and that the Activities involve a significant degree of risk of physical harm.

1.2 The Participant personally and voluntarily assumes all the risks for any harm, trauma, injury or damage that the Participant may suffer to the Participant's person or property whether foreseen or unforeseen in connection with the Activities.

1.3 The Participant certifies that the Participant has been advised of the inherent risks associated with the Activities and the Participant voluntarily chooses to participate in the Activities fully accepting such risks, should they arise, may cause personal injury, death or property damage and in particular the Participant acknowledges that the Participant has been advised that some of the Obvious Risks include, (but are not limited to):-

- (1) participating and competing in boating and trampolining involves certain risks such as:-
 - (a) soft-tissue damage, ranging from bruising to limb and muscular damage;
 - (b) sprains or joint injuries to limbs as a result of movement required during the Activities;
 - (c) broken bones;
 - (d) concussion;
 - (e) permanent disability;
 - (f) death.
- (2) the injuries of a type referred to in clause 1.3(1) may require non-urgent medical treatment.

2 Health and Fitness for Activities

2.1 The Participant confirms that the answers the Participant has provided in the Health and Fitness Questionnaire to this Deed are true and correct and that GRANDTAC has relied on those answers in allowing the Participant to participate in the Activities.

2.2 The Participant will immediately advise GRANDTAC of any changes to the answers the Participant has provided in the Health and Fitness Questionnaire to this Deed as they occur from time to time.

3 Directions

3.1 The Participant will not engage in reckless, negligent or foolish behaviour or any other behaviour likely to cause injury to the Participant, any other participant, GRANDTAC or any other person whatsoever.

3.2 The Participant agrees to abide by the directions at all times while the Participant is participating in the Activities. The Participant acknowledges that the Participant's inability or refusal to abide by the directions may result in GRANDTAC not allowing the Participant to participate in the Activities.

3.3 The Participant:-

- (1) acknowledges that GRANDTAC may restrict the Participant's participation in the Activities if GRANDTAC in its absolute and unfettered discretion, deems the Participant is acting in an unacceptable manner or if they are affected by alcohol or any other drugs;
- (2) agrees:-
 - (a) to follow the directives of GRANDTAC at all times.
 - (b) that if the Participant is injured or observes any other participant to be injured, the Participant shall immediately notify GRANDTAC of the incident.

4 Release, Discharge & Bar to Action

- 4.1 The Participant unconditionally releases, waives, discharges and forever holds harmless, GRANDTAC from All Claims for Any Loss sustained by the Participant whether caused by GRANDTAC's negligent act or omission, breach of contract, breach of statutory duty, error or otherwise in connection with the Activities.
- 4.2 If, despite these terms, it is found that GRANDTAC is liable to compensate the Participant then such liability is limited to the cost of the Activities provided to the Participant by GRANDTAC.
- 4.3 The Participant agrees that this Deed may be pleaded as a bar to any action, suit or proceedings taken at any time by the Participant against GRANDTAC arising out of or as a consequence of the Activities.

5 Indemnity

- 5.1 The Participant agrees:-
 - (1) to indemnify and keep indemnified GRANDTAC from All Claims that may be brought against GRANDTAC as a result of or in connection with any act, omission, default, failure or error on the part of GRANDTAC (including any negligent act, omission, default, failure or error) occurring wholly or partially during the course of the Activities.
 - (2) that GRANDTAC will not be liable and waives any right to claim Any Loss whether in tort, in contract, under statute or otherwise, for any default, failure, negligence or error on the part of GRANDTAC.
- 5.2 If, despite these terms of this Deed, it is found that GRANDTAC is liable to compensate the Participant then such liability is limited to the cost of providing the Activities in respect of which the liability arises.

6 Parent/Guardian Undertaking

- 6.1 By personally executing this Deed, the Participant warrants that the Participant is at least eighteen (18) years of age.
- 6.2 Where this Deed is signed by the parent or guardian of a Participant who is a minor (being a person under the age of eighteen (18) years) then the parent or guardian:-
 - (1) consents to the Participant participating in the Activities;
 - (2) agrees to cause the Participant to comply with the Participant's obligations under this Deed;
 - (3) warrants that the information contained in this Deed (including the Health and Fitness Questionnaire) is true and correct; and
 - (4) personally covenants in the terms of this Deed and in particular the parent or guardian gives to GRANDTAC:-
 - (a) a release on the same terms as clause 4 from All Claims for Any Loss sustained by the Participant; and
 - (b) an indemnity on the same terms as clause 5 from All Claims occurring wholly or partially during the course of the Activities.

7 Binding on Successors

7.1 The Participant acknowledges that this Deed binds the Participant's heirs, administrators, executors, personal representatives, dependants (if any) and successors and enures for the benefit of GRANDTAC and its successors and assigns.

8 Statement of Affirmation and Understanding

8.1 The Participant acknowledges that the Participant has read and understood the matters set out in this Deed and that the Participant is of lawful age and/or legally competent to give this waiver, release and indemnity.

8.2 The Participant acknowledges that the Participant is engaging in the Activities for enjoyment, relaxation or leisure and that the Activities involve some degree of risk of physical harm.

8.3 The Participant understands and agrees that GRANDTAC will not be held liable in any way for any occurrence with the Activities which may result in harm, injury, incapacity, death or damages to the Participant or the Participant's family.

8.4 The Participant understands and hereby personally assumes all risks in connection with the Activities which may occur while the Participant is participating in the Activities.

8.5 The Participant acknowledges that GRANDTAC excludes (to the full extent permitted by law) any liability whatsoever for any Loss relating to or arising out of my participation in the Activities under the *Competition and Consumer Act 2010* (Cth).

8.6 The Participant acknowledges that the conditions set out in this Deed are contractual in nature, are intended to have legal effect and are not merely a warning or recital.

8.7 The Participant certifies that the Participant is physically fit, not under the influence of alcohol or drugs at the time and sufficiently healthy and qualified to participate in the Activities and to provide this release of discharge.

8.8 The Participant has signed this Deed of the Participant's own free will and without any representation or inducement by GRANDTAC, its agents or employees.

9 Definitions

9.1 In this Deed, unless inconsistent with the context or subject matter:-

(1) **Activities** includes, but is not limited to:-

- (a) participating in boating activities offered by GRANDTAC;
- (b) such other activities arising out of the Participants involvement of the boating activities offered by GRANDTAC;
- (c) using the trampoline affixed to the stern of any boat owned by GRANDTAC

(2) **All Claims** means all claims, actions, suits, demands, damages, interest and costs arising out of or as a consequence of the Activities.

(3) **Any Loss** means any loss, damage or injury to person (including the Participant) or property including but not limited to:-

- (a) any damage or injury occasioned howsoever including without limitation, by:-
 - (i) the Activities;
 - (ii) other participants;
 - (iii) participating in competitions;
 - (iv) the use of the facilities and equipment wherever so located in connection with the Activities;

- (v) any equipment supplied to the Participant by GRANDTAC in connection with the Activities;
or
 - (vi) otherwise arising out of the Participant's involvement in the Activities.
- (b) any damage or injury occasioned whatsoever including without limitation as a result of any person, including the Participant:-
- (i) falling over; and/or
 - (ii) colliding with another person; and/or
 - (iii) becoming disoriented or suffering loss of consciousness.
 - (iv) whether caused by:-
 - (A) negligence; or
 - (B) accident; or
 - (C) another person; or
 - (D) however otherwise caused.

9.2 **GRANDTAC** includes but is not limited to **GRANDTAC PTY LTD ACN 636 994 404**, and all instructors, assistant instructors, agents, employees, directors, contractors, or coxswains.

9.3 **Dangerous Recreational Activities** has the same meaning as Section 18 of the Civil Liability Act 2003 (Qld) and in any other relevant State and Federal Legislation from time to time.

9.4 **Obvious Risks** has the same meaning as Section 13 and 18 of the Civil Liability Act 2003 (Qld) and in any other relevant State and Federal Legislation from time to time.

9.5 **Participant** means the person described as 'The Participant' listed in the table at the top of this waiver and release.

10 Further Acknowledgements

10.1 The Participant acknowledges that:-

- (1) the Participant:-
 - (a) has read and understood this waiver and release;
 - (b) understands the dangers associated with the consumption of alcohol, drugs, medication or any mind altering substance before or during the carrying out of the Activities and accepts full responsibility and liability for personal injury, death or loss, either they or another person suffers or incurs, which is in any way connected with the Activities; and
 - (c) that they can swim to a satisfactory level.