

PLEASE GIVE US YOUR NEATEST WRITING IN COMPLETING THE AGREEMENT

RELEASE, WAIVER OF LIABILITY, ASSUMPTION OF RISK AND INDEMNITY AGREEMENT

DEFINITIONS

1. "The Company" and "us" means Daywing Pty Limited ABN 83 050 329 461 trading as Picton Karting Track of 200 Picton Road, Maldon and includes all directors, officers, agents, employees, licensees and sub-contractors of the Company.
2. "Activities" means hiring and use of the Company's go-karts, track hire for the use of privately owned karts, privately owned motorbikes (which includes any road registered bike and track bike 450cc and under). The use of all services and facilities offered at the track by the Company and includes attendance at the Track for the purpose of go-kart racing, motorbike riding or otherwise.
3. "The Track" means the Picton Karting Track being the whole of the land known as 200 Picton Road, Maldon NSW and including all buildings and other structures upon such land.
4. "CAC" means Competition and Consumer Act 2010 (Cth).
5. "CLA" means Civil Liability Act 2002 (NSW).
6. "I", "me", "myself" means yourself, driver.

IN CONSIDERATION of the Company consenting to me competing in, officiating at, observing, working at or participating in any way in the activities,

I (Full Name Please Use Block).....

Of (Address)Suburb:.....P/code:.....

Mobile: Next of Kin Name:Next of Kin Mobile:.....

Occupation:..... Employer:..... **DOB:** Age: Check by

for myself, my personal representatives, heirs, successors and assigns, hereby:

1. **Acknowledge – Risk Warning - RECREATIONAL ACTIVITIES (INCLUDING GO-KARTING AND MOTORBIKE RIDING) INVOLVE A SIGNIFICANT RISK OF PHYSICAL HARM OR PERSONAL INJURY INCLUDING PERMANENT DISABILITY AND/OR DEATH TO PARTICIPANTS. ANY SUCH HARM OR INJURY MAY RESULT NOT ONLY FROM YOUR ACTIONS BUT FROM THE ACTION, OMISSION OR NEGLIGENCE OF OTHERS.**
2. An "obvious risk" to a person who suffers harm is a risk that, in the circumstances, would have been obvious to a reasonable person in the position of that person.
3. Obvious risks include risks that are patent or a matter of common knowledge.
4. A risk of something occurring can be an obvious risk even though it has a low probability of occurring.
5. A risk can be an obvious risk even if the risk (or a condition or circumstance that gives rise to the risk) is not prominent, conspicuous or physically observable.
6. I am presumed to have been aware of the risk of harm if it was an obvious risk.
7. I am aware of a risk if I am aware of the type or kind of risk, even if I am not aware of the precise nature, extent or manner of occurrence of the risk.
8. The CLA provides "recreational activity" includes:
 - (a) any sport (whether or not the sport is an organised activity), and
 - (b) any pursuit or activity engaged in for enjoyment, relaxation or leisure, and
 - (c) any pursuit or activity engaged in at a place (such as a beach, park or other public open space) where people ordinarily engage in sport or in any pursuit or activity for enjoyment, relaxation or leisure.

9. The CAC provides "**Recreational services**" are services that consist of participation in:
- (a) a sporting activity or a similar leisure time pursuit; or
 - (b) any other activity that:
 - (i) involves a significant degree of physical exertion or physical risk; and
 - (ii) is undertaken for the purposes of recreation, enjoyment or leisure.
10. The Company is not liable in negligence for harm suffered by me or another person as a result of the materialisation of an obvious risk of a dangerous recreational activity (a recreational activity that involves a significant risk of physical harm) for the provisions of Recreational Services by the Company engaged in by me.
11. The Company does not owe a duty of care to me engaging in a recreational activity to take care in respect of a risk of the activity if the risk was the subject of a risk warning.
12. By signing this document I acknowledge receiving the risk warning.
13. To the maximum extent permitted by legislation, including the CAC and CLA, The Company excludes liability to you for:
- (a) death;
 - (b) personal injury;
 - (c) the contraction, aggravation or acceleration of a disease; and
 - (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:
 - i) that is or may be harmful or disadvantageous to an individual or community; or
 - ii) that may result in harm or disadvantage to an individual or community.
- arising out of any failure by us, our employees, or agents to comply with any consumer guarantees applying to the services (including those set out in the Australian Consumer law). Where liability cannot be excluded, The Company will limit its liability to the maximum extent permitted by law.
14. Except to the extent that the law, including the CAC and CLA, provides that liability cannot be excluded, you acknowledge that the Company is not liable to you for any personal injury or death, which includes loss, damage, injury to you or any persons and any incidental, indirect, special, consequential or economic loss or damage to you or any persons (including loss of opportunities, exemplary or punitive damages) whether arising from default, negligence, misconduct or otherwise by the Company, its employees and agents and you indemnify the Company against all such claims.
15. **Agree to abide** by all terms and conditions and rules and regulations established by the Company from time to time regarding participation in the activities.
16. **Agree to follow** all directions given to me by the Company whilst I am at the Track.
17. **Agree that if**, at any time, I feel anything to be unsafe, I will immediately advise the Company and stop participating in the activities.
18. **Agree that this Release and Waiver of Liability**, Assumption of Risk and Indemnity Agreement extends to all acts of negligence by the Company and is intended to be as broad and inclusive as is permitted by the laws of the State in which the activities are conducted and that if any portion thereof is held invalid, it is agreed that the balance shall, notwithstanding, continue in full legal force and effect.
19. **Agree that this Release and Waiver of Liability**, Assumption of Risk and Indemnity Agreement is continuing and further agree to be bound by the terms and conditions herein on each and every occasion on which I attend the Track for whatever purpose from the date hereof.



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 www.pkt.net.au

I CONFIRM THAT I HAVE READ THIS RISK WARNING, RELEASE AND WAIVER OF LIABILITY, ASSUMPTION OF RISK AND INDEMNITY AGREEMENT AND FULLY UNDERSTAND ITS TERMS. I UNDERSTAND THAT I HAVE GIVEN UP SUBSTANTIAL RIGHTS BY SIGNING IT AND HAVE SIGNED IT FREELY AND VOLUNTARILY WITHOUT ANY INDUCEMENT, ASSURANCE OR GUARANTEE BEING MADE TO ME AND INTEND MY SIGNATURE TO BE A COMPLETE AND UNCONDITIONAL RELEASE OF ALL LIABILITY TO THE GREATEST EXTENT ALLOWED BY LAW.

I ALSO CONFIRM THAT I AM NOT UNDER THE INFLUENCE OF DRUGS OR ALCOHOL WHILST KARTING/DRIVING/RIDING AND WILL WATCH AND LISTEN TO THE SAFETY VIDEO AND ABIDE BY ALL INSTRUCTIONS GIVEN TO ME PRIOR TO PARTICIPATING IN THE EVENT, AND I AGREE TO PAY FOR ANY MALICIOUS DAMAGE MADE TO KARTS, BIKES AND EQUIPMENT.

MEDICAL DISCLOSURE: I declare that I am physically fit unless I have disclosed any relevant medical or physical conditions to you below before participating in the recreational activity provided. (Details of relevant medical or physical conditions to be inserted and importantly to notify our team)

.....

.....
 Drivers Signature Check by
 Date Check by
 Drivers M/V Licence Number Check by

Only complete if driver is under the age of 18 years

Note: Require Consent and Indemnity by Guardian if Driver is Under 18 years

I,(name).....

of(address).....

Phone number, being the parent/guardian of (the driver) hereby consent to the driver participating in the activities and using the facilities and services of the Company. In consideration of the Company providing such activities, facilities and services upon the terms and conditions above, which I have read and understood, I hereby agree to be liable for and to indemnify and keep indemnified the Company against all loss, damages, costs and expenses whatever suffered or incurred by the Company as a result of any actions or failure to act or behavior whether negligent or otherwise of the driver and including loss, damage, costs and expenses sustained by the Company and directly or indirectly caused by the driver's breach of any of the terms and conditions above.

I further authorise the Company in respect of any accident, injury or illness sustained by the driver to obtain all necessary medical assistance and hospital accommodation and in this respect I agree to pay all hospital and doctors fees and expenses incurred on the driver's behalf such to be paid to the Company on demand. In the event of any emergency necessitating the performance or an urgent surgical operation upon the driver, I hereby authorise such operation and the administration of an anaesthetic, provided that such medical treatment is administered by a fully qualified medical practitioner.

.....
 Signature of Parent/Guardian Check by