



Perpetual Agreement (Fillable)

Ordering Smoothline Stage Notes

Thank you for choosing Smoothline Stage Notes. For your convenience we have streamlined our system so you only need to complete our main legal agreement (**this form**) the first time you use Smoothline notes. For each event (including your first) you will need to complete a short Event Order Form containing the event-specific information.

1. **Perpetual Agreement (this form):**

The perpetual agreement is a legal document that needs to be completed by ALL entrants, drivers and co-drivers who use Smoothline notes. This covers their use of Smoothline notes in all events thereafter unless and until the terms of this Perpetual Agreement are amended.

With each crew member required to complete the agreement, crews competing together may (but need not necessarily) complete the same copy.

This fillable version may be completed electronically (on your computer) before printing, signing and returning by email or fax.

2. **Event Order Form:**

The event order form is a short document that needs to be completed for each event. It requires each crew member's details but only 1 signature.

3. **Notes Variant:**

All first time Smoothline users are encouraged to use 1-10 (Marked as "best for new users"). Around 50% of users continue to use these Medallion Notes. If you are a first time user and believe you should use another level, please contact Smoothline on 0402 256 395 before submitting an order.

4. **Single Event License Fee:**

Smoothline Stage Notes are provided on a **single event basis**. The license fee for using Smoothline Stage Notes is specific to each level of notes and each event and is payable through www.smoothline.com.au/shop. Payment of this fee provides users the right to use Smoothline notes for one event only.

If we can help you in any way please contact us.

Regards,

Steve Glenney and Bernie Webb

Smoothline Stage Notes

m: 0402 256 395

e: notes@smoothline.com.au

p: PO Box 575, Griffith NSW 2680

SMOOTHLINE PERPETUAL STAGE NOTES LICENCE AGREEMENT

DATED this

THIS AGREEMENT is made between **Race Innovations Pty Ltd (ACN 146 728 127) trading as “Smoothline”** of PO Box 575, Griffith NSW 2680 (“**Race Innovations**”) and the person or entity (or if more than one, then all of them jointly and severally) whose name appears in Schedule A to this Agreement of this Agreement (“**Covenantor**”)

RECITALS

- A. Race Innovations is the author and owner of Stage Notes which it has produced and proposes to produce, for use by competitors in various motor vehicle rally competitions to be conducted in various locations in Australia and elsewhere during the Term (“**the Stage Notes**”).
- B. The Covenantor wishes to acquire a limited licence to use one or more of the Stage Notes (“**the Nominated Stage Notes**”), in each instance for the Licence Fee.
- C. The Covenantor agrees to receive the Nominated Stage Notes on the terms and conditions set out in this Agreement.
- D. Subject to the terms of this Agreement, Race Innovations will provide the Nominated Stage Notes to the Covenantor subject to the receipt of payment in each instance of the Licence Fee.
- E. The Covenantor and Race Innovations have recorded the terms and conditions of their understanding in this Agreement.

IT IS AGREED:

1. Interpretation

- 1.1. In this Agreement, unless the context otherwise requires:
 - 1.1.1. the Recitals are correct;
 - 1.1.2. headings to not affect interpretation;
 - 1.1.3. singular includes plural and plural includes singular;
 - 1.1.4. words of one gender include any gender;
 - 1.1.5. reference to legislation includes any amendment to it, any legislation substituted for it and any subordinate legislation made under it;
 - 1.1.6. reference to a person includes a corporation, joint venture, association, government body, firm and any other entity;
 - 1.1.7. reference to a party includes that party’s personal representatives, successors, and permitted assigns;

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- 1.1.8. reference to a thing (including a right) includes a part of that thing;
- 1.1.9. reference to two or more people means each of them individually and all of them jointly;
- 1.1.10. if a party comprises two or more people;
- a promise by that party binds each of them individually and all of them jointly;
 - a right given by that party is given to each of them individually;
 - a representation, warranty or undertaking by that party is made by each of them individually
- 1.1.11. a provision must not be construed against a party only because that party prepared it;
- 1.1.12. a provision must be read down to the extent necessary to be valid. If it cannot be read down to that extent, it must be severed;
- 1.1.13. if a thing to be done on a day which is not a Business Day must be done on the Business Day before that day;
- 1.1.14. another grammatical form of a defined expression has a corresponding meaning.
- 1.2 In this Agreement, unless the context otherwise requires, the following words and expressions shall have the following meanings:
- “**AASA**” means Australian Auto Sport Alliance Pty Ltd;
- “**Agreement**” means this Agreement as amended from time to time;
- “**Assumptions**” means the assumptions which have been used in preparing the Stage Notes being:
- 1.2.1 that the driver and co-driver/navigator to whom the Covenantor will make the Nominated Stage Notes available for use in connection with the Event (“**the Driver and Co-Driver**”) are experienced in the sport of tarmac rallying or gravel rallying as the case may be and are familiar with the intent, purpose and appropriate use of Stage Notes;
- 1.2.2 that the Driver and Co-driver only intend to use the Nominated Stage Notes as a reference guide and aid when conducting their own reconnaissance for the Event and in preparing their own pace notes for the Event;
- 1.2.3 that if the Driver and Co-driver are unable to participate in reconnaissance for the Event and propose therefore to use the Nominated Stage Notes during the Event as if they were their own prepared notes, they will compete at a significantly reduced speed

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than they would were they to have undertaken reconnaissance for the event;

- 1.2.4 that the weather conditions which will prevail during the Event are fine and dry;
- 1.2.5 that the course route will not alter between the date of this Agreement and the running of the Event;
- 1.2.6 that there are no unusual circumstances which may affect visibility or driving conditions including, but not limited to, any unforeseen obstacles on the road;
- 1.2.7 that visibility on the road/ground during the Event will be good and clear; that the condition of the road surface will not materially alter between the date of this Agreement and the running of the Event;

“Australian Targa Championship” means the Australian Targa Championship promoted and conducted from time to time by Targa Australia Pty Ltd;

“Australian Targa Championship Portal” means the Australian Targa Championship web portal for competitors in events conducted as part of that Championship and accessible via the domain www.targa.com.au;

“CAMS” means Confederation of Australian Motorsport Limited;

“Co-driver” means the co-driver or navigator of the competition vehicle to be used in the Event;

“Competitive Stage” means any Competitive Stage or Special Stage or Super Special Stage in the Event as defined in the Event’s Supplementary Regulations and/or as outlined in the Roadbook for the Event provided by the Event organisers;

“Driver” means the driver of the competition vehicle to be used in the Event;

“Entrant” means the applicant for entry in the Event;

“Event Course” means the route of each Stage proposed by the Event Organiser of the Event for the Event by reference to which the Nominated Stage Notes were prepared by Race Innovations;

“Event” means each event scheduled to be conducted during the Term and nominated by the Covenantor to Race Innovations during the Term as an event in respect of which the Covenantor seeks the supply of the Nominated Stage Notes from Race Innovations and in respect of which Race Innovations has produced Stage Notes which it is willing to make available to competitors or prospective competitors therein and **“Events”** has a corresponding meaning;

“Licence Fee” means the sum specified by Race Innovations as the fee payable by the Covenantor in return for a licence to use Nominated Stage Notes in connection with an Event;

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“Nominated Stage Notes” means the Stage Notes produced by Race Innovations in respect of an Event and which are the subject of a Nomination by the Covenantor;

“Nomination” means a documented nomination and request by the Covenantor for the supply by Race Innovations to the Covenantor of Stage Notes for a specified Event or Events in the terms of Schedule B to this Agreement;

“Payment of Licence Fee” means the tender by or on behalf of the Covenantor of the Licence Fee applicable to each set of Nominated Stage Notes to Race Innovations in the manner referred to in Schedule A to this Agreement or via the Australian Targa Championship Portal;

“Race Innovations” means Race Innovations Pty Ltd and includes its directors, shareholders, employees, agents and assigns;

“Stage” means each and every special or competition stage or section of the Event as defined in the Event Supplementary Regulations and roadbooks and **“Stages”** has a corresponding meaning;

“Stage Notes” means the rally pace notes or stage notes produced by Race Innovations in respect of selected Events during the Term;

“Term” means the period commencing on the date of execution of this Agreement by the Covenantor and ending on the publication by the Event Organiser of provisional results for the last Event the subject of a Nomination to which this Agreement applies.

2. Replacement of Earlier Agreement

2.1 If Race Innovations and the Covenantor (and if more than one, any of them) are parties to a Annual Stage Notes Licence Agreement the term of which had not expired prior to the execution by the Covenantor of this Agreement then by their execution of this Agreement the Covenantor and Race Innovations agree that such unexpired Annual Stage Notes Licence Agreement is terminated with immediate effect;

2.2 Nothing in this clause effects the operation of any clause in any prior Annual Stage Notes Agreement which provides for the survival of clauses following termination.

3. Licence to Use and Supply of Stage Notes

3.1. Subject to the receipt by Race Innovations of a fully completed and Executed copy of this Agreement, upon receipt of a Nomination from the Covenantor and payment of the applicable Licence Fee for the Stage Notes the subject of that Nomination, Race Innovations will supply to the Covenantor those Nominated Stage Notes by posting a copy of the same to the postal address provided by the Covenantor in Schedule A to this Agreement unless a different means of supply has been agreed by the parties.

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4. Warranties and Covenants by the Covenantor

4.1. In consideration of Race Innovations, as beneficial owner of the Nominated Stage Notes agreeing to supply the Nominated Stage Notes to the Covenantor upon Payment of the Licence Fee, the Covenantor (or if more than one, each of them):

4.1.1. warrants and represents to Race Innovations that both the Driver and the Co-driver each hold a current competition licence issued by CAMS or AASA (as the case may be) pursuant to the National Competition Rules for the time being of CAMS or AASA as they apply to the Event;

4.1.2. covenants and agrees with Race Innovations that:

- a) before the first day of the Event the Driver and the Co-driver shall navigate each and every Stage in the Event from start to finish for the purposes of interpreting the Stage Notes in relation to the Driver's own skill and experience together with the characteristics of the competition vehicle intended to be used in the Event and make such changes or adaptations to the Nominated Stage Notes as they deem appropriate in their own discretion;
- b) should the Driver and Co-driver elect not to check the Nominated Stage Notes for each and every Stage or any single Competitive Stage then any attempt to use the Nominated Stage Notes in the competitive stages not checked would be reckless and dangerous behaviour on their respective parts;
- c) the Nominated Stage Notes do not represent an indication of the speed at which any part of the Event Course may safely be traversed, being a matter for the sole judgment of the Driver;
- d) there shall be no liability incurred by or attaching to Race Innovations as a consequence of the use, distribution, licensing or any other matter concerning the Nominated Stage Notes;
- e) the Covenantor will make no claim against Race Innovations or its directors, shareholders, employees, agents or assigns, including without limitation CMG, of any kind in respect of the Nominated Stage Notes;
- f) ownership of the intellectual property contained in the Nominated Stage Notes vests exclusively in Race Innovations;
- g) copyright in the Nominated Stage Notes vests in Race Innovations and, accordingly, the Covenantor will not copy or reproduce or otherwise publish, or permit to be copied, reproduced or published by any person, the Nominated

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Stage Notes or their content to anyone other than the Driver and Co-driver including, but not limited to, publication by the public broadcast of any in-car footage which involves the audible publication of the content of the Nominated Stage Notes or any part of them;

- h) the Nominated Stage Notes will only be made available by the Covenantor to the Driver and Co-driver;
- i) the Covenantor will not provide the Nominated Stage Notes or any copy thereof to anyone other than the Driver and Co-driver (assuming one or both of them are not parties to this Agreement) and then only if the Covenantor has first provided a copy of this Agreement to each of them, is satisfied that they have read and understood this Agreement and that they acknowledge that the warranties, covenants and agreements entered into by the Covenantor herein are made by each of them to the Covenantor for the benefit of Race Innovations;
- j) if requested by Race Innovations, the Covenantor will, following the publication of provisional results for each Event for which the Nominated Stage Notes have been supplied, deliver up to Race Innovations each copy of the said Nominated Stage Notes;
- k) the Covenantor will not permit the Nominated Stage Notes or any copy thereof to be used other than in connection with the Event concerned and further acknowledges that this prohibition applies to any subsequent event which uses some or all of any Stages unless the Covenantor has first paid to Race Innovations an applicable re-use fee;
- l) in the event that the Covenantor becomes aware of any error or flaw in the Nominated Stage Notes, to immediately bring the same to the attention of Race Innovations;
- m) Race Innovations shall have no obligation to refund the Licence Fee paid by the Covenantor should the Entrant elect not to enter the Event, the Entrant withdraw his entry for the Event, the Event be cancelled or the Stages be reconfigured or abandoned by the Event Organiser prior to the Event;
- n) Race Innovations has no obligation to supply amended Stage Notes for the Event should the Event Course be altered in any way by the Event Organiser from that by reference to which the Nominated Stage Notes were prepared by Race Innovations;
- o) Race Innovations may in its absolute discretion publish the names of the Driver and Co-driver, the fact of the supply of the Nominated Stage Notes to them and images of the Driver, Co-driver or of the competition vehicle used by them in promoting or advertising its products and services;

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5. Acknowledgment of Assumptions

- 5.1. The Covenantor acknowledges that the Nominated Stage Notes have been prepared in accordance with the Assumptions and agrees with Race Innovations that any attempt by the Driver or Co-driver to use the Nominated Stage Notes in the Event without first checking their accuracy and their suitability to:
- 5.1.1. the skills of the Driver and Co-driver;
 - 5.1.2. the capacity and handling of the competition vehicle in which the Nominated Stage Notes are intended to be used; and
 - 5.1.3. the prevailing weather and road or ground conditions,
- would be reckless and dangerous behaviour on their respective parts.

6. Disclaimer of Liability

- 6.1. No person including, without limitation, the Covenantor, the Driver, the Co-driver and Entrant should rely on the contents of the Nominated Stage Notes without first independently checking the Nominated Stage Notes by driving each of the Stages in a non-competitive environment.
- 6.2. The Nominated Stage Notes are supplied by Race Innovations to the Covenantor on the understanding that by his execution of this Agreement the Covenantor for and on behalf of himself, the Entrant, the Driver and the Co-driver acknowledges that:
- 6.2.1. Race Innovations is not responsible for the results of any actions or omissions taken on the basis of information in the Nominated Stage Notes nor for any error in or omission from the Nominated Stage Notes;
 - 6.2.2. Race Innovations expressly disclaims all and any liability and responsibility to any person, including the Covenantor, the Entrant, the Driver and the Co-driver and each of their heirs, successors, dependents or assigns, in respect of anything, and of the consequences of anything, done or omitted to be done by such person in reliance, whether wholly or partially, on the whole or any part of the Nominated Stage Notes;
 - 6.2.3. no representation or warranty, express or implied, is made by Race Innovations as to the accuracy, completeness or thoroughness of the content of the Nominated Stage Notes;
 - 6.2.4. the Nominated Stage Notes are for the confidential use only of the Covenantor and the Driver and Co-driver upon the terms and conditions set out in this Agreement and are not to be reproduced by the Covenantor or any other person for any other purpose.

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7. Indemnity

- 7.1. The Covenantor forever and completely indemnifies Race Innovations, its directors, shareholders, employees, agents or assigns, including without limitation CMG, in respect of any claim made by any person, including but not limited to:
- 7.1.1. the Entrant;
 - 7.1.2. the Driver;
 - 7.1.3. the Co-driver;
 - 7.1.4. any person claiming through the Entrant, the Driver or the Co-Driver;
 - 7.1.5. any other entrant, competitor, service crews or officials in the Event;
 - 7.1.6. any owner of property claimed to have been damaged in the Event; or
 - 7.1.7. any person claiming to have been injured in the Event or any person claiming through them; or
 - 7.1.8. any other person claiming to have suffered loss of any kind in any way arising out of the Nominated Stage Notes or the use of the Nominated Stage Notes.

8. Hold Harmless

The Covenantor (or if more than one, each of them) for and on behalf of himself, and each of the Entrant, Driver and Co-driver will forever hold Race Innovations, its directors, shareholders, employees, agents or assigns, including without limitation CMG, (collectively “**the Beneficiaries**”) harmless from any claim which any of them could make against any of the Beneficiaries in any way arising out of the use of the Nominated Stage Notes.

9. Confidentiality

- 9.1. The Covenantor (and if more than one, each of them jointly and severally) agrees that he shall not, either during or after the term, disclose to any person, firm, corporation or organisation (excepting the Driver and Co-driver) any part of the Nominated Stage Notes nor shall the Covenantor reproduce the Nominated Stage Notes except for the purposes of use by the Driver and Co-driver in accordance with the terms of this Agreement.
- 9.2. The Covenantor accepts personal liability to compensate Race Innovations in the event that Race Innovations suffers loss, damage or liability in consequence of a breach of this clause by the Covenantor or the confidentiality of the Nominated Stage Notes not being respected by any person to whom the Covenantor makes the Nominated Stage Notes available.

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- 9.3. The restrictions contained in this clause 8 shall continue to apply after the termination of this Agreement indefinitely and shall only cease to apply to information which enters the public domain.

10. Copyright and Intellectual Property

- 10.1. Usage of the Nominated Stage Notes is restricted to the Event for the purposes of reconnaissance prior to commencement of the Event and for the purposes of traversing the course during the Event. Permission to use the Nominated Stage Notes expires on the publication by the Event Organiser of the Event of provisional results for the Event. The right to reuse the Nominated Stage Notes at any time thereafter can only be undertaken with the express written consent of Race Innovations and on payment of a re-use fee as determined by Race Innovations.

11. Conditions of Licence

- 11.1. The Nominated Stage Notes are the intellectual property of Race Innovations and are protected under the *Copyright Act 1968* (Cth). The Nominated Stage Notes are licensed to be used by the Covenantor, the Driver and the Co-driver subject to the condition that they shall not, by way of trade or otherwise, be lent, resold, hired out or otherwise circulated or published without the express written consent of Race Innovations who is the copyright and intellectual property holder. No material therein may be reproduced in part or in whole without the written consent of Race Innovations.
- 11.2. All persons, corporations or entities found in breach of the copyright and intellectual property conditions of this Agreement or clauses 9 or 10 herein agree to pay on demand to Race Innovations the sum of \$2,000.00 by way of compensation for each breach of such conditions.

12. Termination

- 12.1. The Covenantor may at any time during the Term terminate this Agreement by written notice to Race Innovations. However, that termination will not have effect until the publication by the Event Organiser of the final results for the last Event in respect of which the Covenantor has made a Nomination and in respect of which Race Innovations has supplied Stage Notes to the Covenantor.
- 12.2. The termination of this Agreement by the Covenantor will not entitle the Covenantor to a refund of any Licence Fee paid to Race Innovations, other than a Licence Fee paid by the Covenantor in respect of Nominated Stage Notes which as at the date of notice of termination have not been supplied by Race Innovations.
- 12.3. Race Innovations may in its discretion terminate this Agreement at any time during the Term for any reason whatsoever by giving written notice to the Covenantor and such termination shall have immediate effect.
- 12.4. In the event that Race Innovations terminates this Agreement and the Covenantor is not in breach of this Agreement or has not previously committed a breach of this Agreement, then the Covenantor shall be entitled to a refund of any Licence Fee paid to Race Innovations for

Covenantor(s) Initial(s):.....

Nominated Stage Notes not supplied by Race Innovations to the Covenantor as at the date of termination, but not otherwise.

13. Important Note

13.1. Motorsport is dangerous. Every care has been taken in the preparation and presentation of the Stage Notes which, by their nature, reflect a subjective assessment by the authors of distance, potential hazards and steering input required, the latter being peculiar to the vehicle used in the preparation of the Stage Notes, the authors' placement of the vehicle on the road and the authors' assessment of the racing line. Ultimate responsibility for the safety of the Driver and Co-driver while competing in the Event remains with the Driver and Co-driver. Race Innovations, its directors, shareholders, employees, agents and assigns accept no responsibility whatsoever for the safety of the Driver and the Co-driver while participating in the Event.

14. Survival of Clauses

14.1. Each of Clauses 4, , 6, 7, 8, 9, 10,11 and 13 of this Agreement survive the expiry of the Term or Termination of this Agreement.

15. Force Majeure

15.1. A party is not liable for a breach of this Agreement to the extent the breach is caused by circumstances outside the party's direct control and for the periods that those circumstances continue, if that party:

15.1.1. immediately notifies the other party; and

15.1.2. tries to remedy the clause quickly.

16. Entire Agreement

16.1. This document records the entire agreement between the parties about its subject matter.

16.2. The parties exclude all terms implied by law, where possible.

16.3. No party have given any warranty or made any representation to the other party about the subject matter of this Agreement, other than those warranties and representations appearing in this document.

17. No Waiver

17.1. A party may only waiver breach of this Agreement in writing signed by that party or its authorised representative.

17.2. A waiver is limited to the instance referred to in the writing (or if no instance is referred to in the writing, to past breaches).

18. Amendment

This Agreement may only be amended in writing signed by the parties.

Covenantor(s) Initial(s):.....

19. **Counterparts**

19.1. This Agreement may be executed in any number of counterparts. A counterpart may be a facsimile transmission or in PDF electronic format.

19.2. Together all counterparts make up one document.

19.3. If this Agreement is executed in counterparts, it takes effect when each party has received the counterpart executed by each other party, or be deemed to have received it if a notice.

20. **Governing Law**

20.1. This Agreement is governed by the laws of South Australia.

20.2. The parties irrevocably submit to the exclusive jurisdiction of the Courts of South Australia and the South Australian division of the Federal Court of Australia and the Courts of Appeal from them.

20.3. No party may object to the jurisdiction of any of those Courts on the grounds that it is an inconvenient forum or that it does not have jurisdiction.

21. **Severance**

19.1 Any term of this Agreement which is repugnant to the general interpretation of this Agreement or which is invalid, unlawful, void or unenforceable shall be capable of severance without effecting any of the other terms of this Agreement.

EXECUTED by **RACE INNOVATIONS** (ACN 146 728 127) in accordance with Section 127 of the *Corporations Act 2001*

.....
Director

.....
Director / Company Secretary

Covenantor(s) Initial(s):.....

EXECUTED by the COVENANTOR(S)

Covenantor 1 Name
Covenantor 1 Signature

Covenantor 2 Name
Covenantor 2 Signature

Witness Name
Witness Signature
Date of Execution by Covenantor 1

Witness 2 Name
Witness 2 Signature
Date of Execution by Covenantor 2

SCHEDULE A

1. Details of Covenantor(s):

	Covenantor 1	Covenantor 2 (If Applicable)
First Name		
Surname		
DOB		
Phone (Home)		
Phone (Mobile)		
Email Address		
Residential Address	Street: Suburb: State/Region: Post Code: Country:	Street: Suburb: State/Region: Post Code: Country:

Instructions:

- 1. Please print this completed agreement, initial all pages, fully execute page 11 and schedule A then scan and email to notes@smoothline.com.au.**
- 2. Place an order for event-specific Stage Notes at www.smoothline.com.au/order-notes.**

Pre-Lodgement Checklist

(Perpetual Agreement)

Please note that the Entrant, driver and co-driver (referred to as Covenantors in this agreement) ALL need to submit a completed copy of the Perpetual Agreement. Up to 2 parties may sign each copy of the agreement.

Note: With each crew member required to complete the agreement, crews competing together may (but need not necessarily) complete the same copy of the form.

Before lodging your completed Smoothline Perpetual User Agreement, please ensure the following is correct:

Date has been entered at the top of Page 1.

Each Covenantor has initialed every page.

Each Covenantor has signed page 12 (and all signatures have been witnessed by someone NOT party to the agreement).

Each Covenantor's details (Driver/Co-driver/Entrant) have been fully completed in Schedule A.

And...

A Stage Notes Order has been placed at www.smoothline.com.au/order-notes.

Note:

This fillable Perpetual Agreement may be completed electronically before printing, signing and returning by email.

This form must be printed and signed before submitting

PLEASE SUBMIT THIS COMPLETED AGREEMENT BY:

Scan & Email to: notes@smoothline.com.au