

BULLER SKI LIFTS PTY LTD
LIABILITY EXCLUSION, RELEASE, WAIVER & CONDITIONS OF ENTRY

ABOM MOGUL CHALLENGE ('the Event')

Name of Competitor:

Date of birth of competitor:

Address:

.....

Telephone:

I, the undersigned competitor, in consideration for being permitted by Buller Ski Lifts Pty Ltd (ABN 25 153 985 529) ('**Buller Ski Lifts**') to compete in the Event, I agree to the following terms and conditions ('**Conditions**')

1. I agree and acknowledge that my participation in the Event is to be regarded as the supply to me of Recreational Services, by the Supplier referred to in clause 2, in the manner those services are defined in the *Australian Consumer Law and Fair Trading Act 2012* (Vic) and the *Competition and Consumer Act 2010* (Cth). I also agree that my competing in the Event involves my participation in:
 - (a) a sporting activity; and
 - (b) an activity that involves a significant degree of physical exertion and physical risk and which I am undertaking for the purpose of recreation and enjoyment.

EXCLUSION OF LIABILITY

2. Buller Ski Lifts and any related corporation, ('**the Supplier**') its employees, directors and agents, shall not be liable to me, my dependents or legal representatives for personal injury or death suffered by me due to the negligence, breach of contract or statute or statutory duty of the Supplier, including but not limited to any liability for Recreational Services not being rendered with due care and skill or not being reasonably fit for any purpose which I made known, expressly or by implication, to the Supplier or because they failed to achieve any result reasonably expected by me which I, expressly or by implication, made known to the Supplier or for breach of any other consumer guarantee of the *Australian Consumer Law* (Vic) or of the *Australian Consumer Law* (Cth).

RISK WARNING AND WAIVER TO SUE

3. I acknowledge that Recreational Services and associated recreational activities including my participation in the Event, are dangerous with many risks and hazards and as a consequence personal injury (including serious personal injury) and sometimes death can occur and I assume and accept all such risks and hereby waive the right to sue the Supplier, their employees,

directors and agents for any personal injury or death suffered by me in any way whatsoever caused by or arising from my use of such services or my participation in such activities.

WARNING UNDER THE AUSTRALIAN CONSUMER LAW AND FAIR TRADING ACT 2012

4. Under the *Australia Consumer Law* (Vic), several statutory guarantees apply to the supply of certain goods and services. These guarantees mean that the Supplier named on this form is required to ensure that the recreational services it supplies to you:

- (a) are rendered with due care and skill; and
- (b) are reasonably fit for any purpose which you, either expressly or by implication, make known to the supplier; and
- (c) might reasonably be expected to achieve any result you have made known to the supplier.

Under section 22 of the *Australian Consumer Law and Fair Trading Act 2012*, the Supplier is entitled to ask you to agree that these statutory guarantees do not apply to you. If you sign this form, you will be agreeing that your rights to sue the Supplier under the *Australian Consumer Law and Fair Trading Act 2012* if you are killed or injured because the services provided were not in accordance with these guarantees, are excluded, restricted or modified in the way set out in this form (clauses 5 and 6).

NOTE: The change to your rights, as set out in this form, does not apply if your death or injury is due to gross negligence on the Supplier's part. 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*.

5. I acknowledge that:

- (a) Skiing and snowboarding, participation in the Event, the use of ski lifts and oversnow transport are hazardous activities and can result in injury or death to me;
- (b) Participation in the Event requires certain skills and I declare that I believe that I have sufficient experience, expertise and skill to be able to safely and properly participate in the Event;
- (c) I may be participating in the activities of the Event or in other activities conducted by or on behalf of the Supplier or skiing or snowboarding on terrain that is artificially illuminated which may be uncontrolled, unmarked, ungroomed and not inspected and hence can be more hazardous than during daylight hours;
- (d) I am responsible for ensuring that I have and will wear all suitable and appropriate safety equipment during my participation in the Event (including, but not limited to, helmets, back braces, neck, arm, elbow, wrist supports, leg and knee braces, padding or other

protective devices) designed to assist in preventing or reducing the severity of any personal injuries I may suffer by participating in the Event. I agree and acknowledge that no matter what safety equipment I wear this is in no way a guarantee of preventing or reducing the severity of any personal injuries I may suffer by participating in the Event;

- (e) It is compulsory for all participants to wear an accredited helmet whilst participating in the Event and the Supplier recommends that all snowboarders wear wristguards;
 - (f) My equipment or property may be damaged or lost when transported to, or used on or at the Event;
 - (g) The nature, quality and coverage of snow may be variable and that no representations have been made by the Supplier as to its suitability for the Event;
 - (h) I use the facilities of the Supplier entirely at my own risk, as I find them and with a prior acceptance of the risk of possible danger and personal injury to me;
 - (i) Participation in the Event involves risks, dangers and hazards in addition to those normally associated with recreational snowsports;
 - (j) Alpine weather is extreme and can change rapidly without warning, as a consequence I will ensure that I wear suitable clothing;
 - (k) The Supplier makes no representations as to the suitability of the weather for the Event ;
 - (l) Communication in the alpine environment is difficult and, in the event of an accident, rescue and medical treatment may not be readily available.
6. I will not consume alcohol or illicit drugs whilst participating in the Event and agree that such use will enable the Supplier to exclude me from the Event with no entitlement to any refund of money paid for entry to the Event.
 7. I agree to ski or snowboard within designated areas, observe all signs and co-operate with the Supplier in respect of all instructions and requirements of the Supplier while participating in the Event.
 8. I agree to be fully responsible for any claims by third parties for injury, loss or damage, whether for personal injury or property damage, resulting from any act or omission on my behalf or which is in any way attributable to my conduct. I agree to fully indemnify the Supplier in respect of any such claim(s) that may be brought against the Supplier.
 9. I authorise the Supplier to take all steps considered reasonably necessary to protect my welfare during the Event, including taking steps to obtain emergency medical and/or dental treatment for me if required. I acknowledge such treatment may include helicopter, oversnow or ambulance transport or hospitalisation as well as anaesthesia and/or surgery if recommended by a duly qualified medical practitioner.
 10. I agree to be responsible for all expenses incurred by the Supplier in respect of any such emergency services and/or treatment.

11. I acknowledge that the Supplier has an unrestricted right to deny me access to any of its facilities which includes, but is not limited to, skiing /snowboarding equipment, use of oversnow or other vehicles, chairlifts, drag lifts or other ski tows and the surrounding terrain if I act in any way which, in the sole opinion of the Supplier, is deemed to be reckless or which, in the sole opinion of the Supplier, damages or may damage the terrain or anything used, supplied or constructed in respect of the Event and in such situation I will not be entitled to any refund of money paid to the Supplier whatsoever.
12. I am aware that the Supplier reserves the right to cancel the Event should the Supplier decide that it is no longer appropriate to proceed with the Event and in such a situation there will be no entitlement to any refund of any money paid.
13. By signing this agreement I am not relying on any oral or written representations or statements made by the Supplier with respect to the safety of the Event other than what is set out in this agreement.
14. I consent to photographs taken of me whilst competing in the Event to be used for promotional purposes including television, film, internet and other forms of media without any entitlement to any compensation, reward or financial entitlement.
15. I agree that I have read and understood the rules and conditions of the Event and I will abide by them as determined by the Supplier.
16. I acknowledge and understand that the Supplier is collecting, using and dealing with my personal information in accordance with its policy, which is accessible from www.skibuller.com.au.
17. I acknowledge that this liability exclusion, release, waiver and conditions of entry agreement:
 - (a) Constitutes the entire agreement between myself and the Supplier.
 - (b) These Conditions shall be governed by and construed firstly in accordance with the laws of the Commonwealth of Australia and then in accordance with the laws of the State of Victoria. If there is any inconsistency, the laws of the Commonwealth prevail. The courts of Victoria have exclusive jurisdiction. If any provision of these Conditions should be determined to be illegal, invalid, void or otherwise unenforceable, that provision shall be deemed deleted and the remaining provisions shall remain and continue to be valid, binding and enforceable

