

# GAME OVER DISCLAIMER

## ASUMPTION OF RISK – EXCLUSION OF LIABILITY – WAIVER OF RIGHT TO SUE AND INDEMNITY

**IMPORTANT WARNING: READ THIS DOCUMENT CAREFULLY BEFORE SIGNING – THIS DOCUMENT HAS LEGAL CONSEQUENCES AND WILL AFFECT YOUR LEGAL RIGHTS AND MAY ELIMINATE YOUR ABILITY TO BRING FUTURE LEGAL ACTIONS. PLEASE PAY ATTENTION TO THE HEALTH DECLARATIONS YOU MAKE BELOW.**

The Company (*defined below*) as the operator of this venue supplies all Services (*defined below*) and Facilities (*defined below*) to its customers. In exchange for being permitted to participate in the Activities (*defined below*), the undersigned agrees as follows:

### 1. DEFINITIONS

In this Disclaimer the following words have the following meaning:

- 1.1 **Activities** means the use of the Facilities (or any parts of them) in connection with the Services.
- 1.2 **Company** means Game Over Queenstown Limited of 'McCulloch & Partners Chartered Accountants' 11-17 Church Street, Queenstown, 9300, New Zealand.
- 1.3 **Conditions of Entry** means the conditions of entry and ticket purchase situate within the venue.
- 1.4 **Disclaimer** means this document.
- 1.5 **Facilities** includes but is not limited to:
  - 1.5.1 the go-karting facilities, including all equipment (such as the go karts and safety helmets), the go-kart track, its surrounds and any associated areas;
  - 1.5.2 the horizontal bungee facilities, including all equipment (such as bungee cords and harnesses), the inflatable arena, their surrounds and any associated areas;
  - 1.5.3 the lazer tag facilities, including all equipment (such as lazars and battle suits), the lazer tag arena, its surrounds and any associated areas; and
  - 1.5.4 other sporting or similar recreational facilities and associated equipment.
- 1.6 **I** and **my** means the participant personally and, where the context so permits, includes the participant's spouse, children, parents, guardians, heirs, next of kin, and any legal or personal representatives, trustees, executors, administrators, successors and assigns, or anyone else who might claim or sue on the participant's behalf.
- 1.7 **Indemnified Parties** means the Company as well as the owner of the Premises and any or all parent, subsidiary or affiliate companies and their respective directors, officers, employees, contractors, agents, insurers, equipment suppliers and volunteers.
- 1.8 **Jurisdiction** means New Zealand.
- 1.9 **Premises** means 14 Red Oaks Drive, Frankton, New Zealand and more particularly described as lot 2 Deposited Plan 485537 as contained in Computer Freehold Register 690216.
- 1.10 **Rules and Regulations** means the rules and regulations displayed within the venue.
- 1.11 **Services** means the indoor recreational services supplied by the Company at the venue.

### 2. THE RISKS OF THE ACTIVITY

I am aware that participating in the Activities is hazardous and involves extraordinary risk including:

- 2.1 risk of death;
- 2.2 risk of personal injury;
- 2.3 risk of psychological trauma;
- 2.4 risk of damage to property;
- 2.5 risk that any persons participating in the Activities and/or any person in the vicinity thereof may suffer harm as a result of tripping, slipping or falling, or from coming into contact with objects, floors, walls, equipment, property or other participants/persons in the area;
- 2.6 risk associated with acts of violence and other harmful acts (whether intentional or inadvertent) committed by persons participating in the Activities and/or by any other person; and
- 2.7 risk that the Facilities (or any parts of them) may fail to perform their designated purpose and/or may be unsuitable to ensure the safety of persons participating in the Activities and/or any other person.

### 3. ACKNOWLEDGMENTS

I acknowledge:

- 3.1 the many inherent risks and dangers referred to in clause 2;
- 3.2 that participating in the Activities may also involve additional risks and dangers not expressly referred to in clause 2;
- 3.3 that I use the Facilities as I find them and with the prior knowledge of these risks;
- 3.4 that I am not relying on any oral, written or visual representations or statements by or on behalf of the Company or any other inducement or coercion in deciding to participate in the Activities and in deciding to sign this Disclaimer;
- 3.5 that I must abide by the Conditions of Entry, the Rules and Regulations, all signs and any directions and instructions of the Company whilst I am on the Premises;
- 3.6 that I will accept responsibility for and agree to pay the cost of any damage that I cause to the Facilities (or any parts of them);
- 3.7 that the terms and conditions of this Disclaimer are intended to have legal effect and are not mere warnings or recitals; and
- 3.8 that the Company is relying upon the acknowledgments, declarations and agreements that I provide herein.

#### 4. HEALTH DECLARATIONS

- 4.1 I assert that I am in good health and in proper physical condition to safely participate in the Activities.
- 4.2 I certify that I have no known or knowable physical or mental conditions that would impact upon my ability to safely participate in the Activities, or that would result in my participation creating a risk of danger to myself or to others.
- 4.3 I acknowledge that the Company recommends and encourages each customer to get medical clearance from his/her personal physician prior to participation.
- 4.4 I assert that I have not been advised or cautioned against participating by a medical practitioner.
- 4.5 I understand that it is my responsibility to continuously monitor my own physical and mental condition during my participation in the Activities, and I agree to withdraw immediately and to notify the appropriate personnel if at any point in time my continued participation would create a risk of danger for myself or others.
- 4.6 I certify that I am not under the influence of alcohol, drugs or other substances that could impair upon my judgment or capacity to safely participate in the Activities or that may create a risk of danger for myself or others.
- 4.7 I certify that all information I have given is true, accurate and complete, and I hereby consent and give my authority to the Company to take all steps it considers reasonably necessary to protect my welfare in the event of injury or illness, including the administration of any emergency medical treatment (including but not limited to CPR) and to secure emergency medical care and ambulance transportation on my behalf and I agree to pay for any such costs.

#### 5. ASSUMPTION OF RISK

- 5.1 I have assessed the nature of the Activities carefully and voluntarily assume all of the risks associated with the Activities, and I do so of my own free will. **In short, I acknowledge that I am participating in the Activities at entirely my own risk.**

#### 6. EXCLUSION OF LIABILITY

- 6.1 I hereby agree that the Indemnified Parties will not be liable for any loss of or damage to my personal property, or in respect of my death, personal injury or psychological trauma, whether such loss or damage, death, personal injury or psychological trauma is suffered because the Services were not provided with due care and skill or because the Facilities (or any parts of them) provided in connection with the Services were not reasonably fit for their purpose, or because of negligence, breach of contract, statute or statutory duty.
- 6.2 Without limiting the above, to the extent that liability cannot be excluded but can be limited, then, to the maximum extent permitted by law, liability is limited to (a) the supply of the Services again, or (b) payment of an amount equal to the cost of having the Services supplied again. I agree that the Indemnified Parties will not be liable under any circumstances for any consequential, indirect, incidental or special damages, arising out of or in connection with the my participation in the Activities or my attendance at the Premises.

#### 7. WAIVER OF RIGHT TO SUE AND INDEMNITY

I hereby agree:

- 7.1 not to pursue claims against and (severally) to hold harmless, indemnify and keep indemnified the Indemnified Parties in relation to all losses, actions, expenses, costs, liabilities, claims and demands in respect of any loss of or damage to my personal property, or in respect of my death, personal injury or psychological trauma, howsoever caused or arising out of or in connection with my participation in the Activities or my attendance at the Premises, notwithstanding that such loss or damage, death, personal injury or psychological trauma may have been contributed to or caused by an act or omission of the Indemnified Parties (including because of negligence) and/or by any other person; and
- 7.2 that the Indemnified Parties do not make any representation or warranty, implied or express, whether by statute, common law or otherwise, as to any matter including without limitation that the Services will be provided with due care and skill or that the Facilities (or any parts of them) provided in connection with the Services will be fit for the purpose for which they are used.

#### 8. GENERAL

- 8.1 The above provisions (namely clauses 6 & 7) confer a benefit on, and are intended to be enforceable by, each of the Indemnified Parties (in accordance with the Contracts (Privity) Act 1982).
- 8.2 The foregoing exclusions and limitations apply to the fullest extent permitted at law, and if any portion hereof is held invalid, such invalidity shall not affect the enforceability of any other part or provisions of this Disclaimer.
- 8.3 This Disclaimer is additional to, rather than replacement of, the conditions contained in the Conditions of Entry. To the extent that there is any inconsistency between the conditions of this Disclaimer and those contained in the Conditions of Entry, this Disclaimer shall apply.
- 8.4 The personal information I have provided to the Company enables and facilitates its delivery of the Services and (subject to the terms of my registration) enables the Company to send information relevant to the Activities. The personal information that I have provided to the Company will not be used for any other purpose without my consent.
- 8.5 The terms of this Disclaimer and its interpretation will be governed by the law of the Jurisdiction and the parties submit to the jurisdiction of the courts of the Jurisdiction.

#### **IMPORTANT NOTICE: BY SIGNING THIS DISCLAIMER I AM DEEMED TO HAVE READ & UNDERSTOOD:**

- **THE CONDITIONS OF ENTRY & AGREED TO BE BOUND BY THEM.**
- **THE RULES AND REGULATIONS & AGREED TO BE BOUND BY THEM.**
- **THIS DISCLAIMER & AGREED TO BE BOUND ITS TERMS.**

Name:		Date of birth:	
Signature:		Date:	

**PARENT/GUARDIAN CONSENT (*PERSONS UNDER 18 YEARS OLD*)**

I (name) \_\_\_\_\_ of (address) \_\_\_\_\_ am the parent/guardian (*delete whichever does not apply*) of the minor who is named above ("**Minor**"). I have read this Disclaimer and fully understand its terms and conditions, including the assumption of risk, exclusion of liability, waiver of right to sue and indemnity contained therein. I give my full consent and approval to the Minor participating in the Activities at his/her own risk. In consideration for the right to allow the Minor to participate in the Activities, I, on behalf of the Minor and myself, freely and willingly and voluntarily elect to be bound by the above terms and conditions.

Parent/Guardian Signature: \_\_\_\_\_ Date: \_\_\_\_\_