

# GAME OVER TERMS OF SUPPLY AND DISCLAIMER

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

### IMPORTANT WARNING: READ THIS DOCUMENT CAREFULLY – A LEGAL DOCUMENT THAT AFFECTS YOUR RIGHTS!

The Company (*defined below*) as the operator of this venue supplies all Services (*defined below*) and Facilities (*defined below*) to its customers, and permits them to participate in the Activities, in consideration of the fees paid by or on behalf of the customer, and in accordance with these Terms of Supply and Disclaimer (**Disclaimer**). In exchange for, and as a condition of, being able 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 any use of the Facilities (or any parts of them) in connection with the Services which are permitted or approved by the Company from time to time.
- 1.2. **Company** means Game Over North Lakes Pty Ltd A.C.N. 688 685 958 ABN 29 688 685 958 of 'Hq Robina' Suite 14, Level 1, 58 Riverwalk Avenue, Robina Queensland.
- 1.3. **Conditions of Entry** means the conditions of entry and ticket purchase applicable to the Facility, as displayed at the Facility or otherwise notified to me by the Company.
- 1.4. **Disclaimer** means this document.
- 1.5. **Facilities/Facility** 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 arcade facilities, including all equipment (such as arcade game machines), its surrounds and associated areas;
  - 1.5.3. the mini-golf facilities, including all equipment (such as props and other items in, or around the mini golf course), the mini-golf course, its surrounds and any associated areas;
  - 1.5.4. the bowling facilities, including all equipment including all equipment (such as balls, lanes and associated items), the players arena, its surrounds and any associated areas;;
  - 1.5.5. the batting cage facilities, including all equipment (such as balls, bats and the pitching machine), the players arena, its surrounds and any associated areas; and
  - 1.5.6. other sporting or similar recreational facilities and associated equipment and all other guest areas including the café seating area and other guest waiting areas.
- 1.6. **I and my and me** means personally or by his/her/your parent or guardian or a responsible adult and includes personal representatives, heirs, next of kin, assignees, and trustees, executors or administrators of that person's estate.
- 1.7. **Indemnified Parties** means the Company and all related bodies corporate or affiliated entities, the owner of the Premises, and their respective directors, officers, employees, volunteers, contractors, agents and representatives.
- 1.8. **Jurisdiction** means the State of Queensland.
- 1.9. **Premises** means 49 Stapylton Sreet, North Lakes QLD 4509 and more particularly described as Lot 100 on SP 332223.
- 1.10. **Rules and Regulations** means the rules and regulations applicable to the Facility, as displayed at the Facility or otherwise notified to me by the Company.
- 1.11. **Services** means the goods and services (including the indoor recreational services) supplied by the Company at the Facilities, which are 'recreational services' as defined in the Australian Consumer Law set out in Schedule 2 of the *Competition and Consumer Act 2010* (Cth) (**CCA**).

#### 2. THE RISKS OF THE ACTIVITY

I am aware that participating in the Activities is hazardous and there is obvious and extraordinary risk of physical or mental injury or death. For example, I acknowledge that there is a risk that I may suffer harm as a result of:

- 2.1. tripping, slipping or falling, or from coming into contact with objects, floors, walls, equipment, property or other participants/persons in the area;
- 2.2. the lack of skills, acts of violence and other harmful acts (whether intentional or inadvertent) committed by other persons participating in the Activities and/or by any other person; and
- 2.3. the Facilities (or any parts of them) failing to perform their designated purpose.

#### 3. ACKNOWLEDGMENTS

I acknowledge:

- 3.1. the many inherent risks and dangers involved in participating in the Activities, as 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 the Conditions of Entry apply (subject to clause 8.2), and that I must comply with 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**

I declare:

- 4.1. that I am medically and physically fit to participate in the Activities and have not been advised otherwise by a medical practitioner;
- 4.2. I do not have, and have not had close contact with anyone who has, fever, cough, sore throat or shortness of breath, and do not have or been in close contact with anyone who has been diagnosed with or is suspected of having COVID-19;
- 4.3. that I do not suffer from any pre-existing health condition not disclosed to the Company that may impact upon my capacity to safely participate in the Activities or that may create undue risk for others. If in doubt, I agree that I will seek medical advice prior to participating in the Activities;
- 4.4. 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 undue risk for others; and
- 4.5. that all information given is 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 and ambulance transportation 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. I acknowledge that if I do not wish to be exposed to such risks, then I should not participate in the Activities.

#### **6. EXCLUSION OF LIABILITY**

- 6.1. Subject to clause 7.3, I hereby agree that each of the Company and the owner of the Premises (to the extent that each of them is providing Recreational Services as defined in the CCA) will not be liable for my:
  - 6.1.1. death; or
  - 6.1.2. physical or mental injury (including the aggravation, acceleration or recurrence of such an injury); or
  - 6.1.3. contraction, aggravation or acceleration of a disease; or
  - 6.1.4. suffering the coming into existence of, aggravation of, acceleration of or recurrence of any other condition, circumstance, occurrence, activity, form of behavior, course of conduct or state of affairs that is or may be harmful or disadvantageous to me or the community, or that may result in harm or disadvantage to me or the community,howsoever arising from my participation in the Activities, including because of negligence, breach of contract, statute or statutory duty or otherwise.
- 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, the liability of the Company in connection with the Services (including the Activities) 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. Further, to the extent permitted at law, I agree that the Company will not be liable for any consequential, indirect, incidental or special damages, arising out of or in connection with my participation in the Activities.

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

- 7.1. Subject to clause 7.3, I hereby agree:
  - 7.1.1. not to pursue claims against any of the Indemnified Parties; and
  - 7.1.2. to hold harmless, indemnify and keep indemnified each of the Indemnified Parties from and against any and all losses, actions, expenses, costs, liabilities, claims and demands ("**Claims**") which may be incurred or sustained by any of the Indemnified Parties,in connection with:
  - 7.1.3. my death, or any physical or mental injury or any other matters identified in clause 6.1.1 to 6.1.4 (inclusive) suffered by me,howsoever arising from my participation in the Activities or my attendance at the Premises, including whether arising because of negligence, breach of contract, statute or statutory duty or otherwise.
- 7.2. I further agree that, to the maximum extent permitted by law, none of the Indemnified Parties 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.
- 7.3. However, I understand that nothing in this Disclaimer excludes, restricts or modifies any rights that I may have as a result of a significant personal injury that is caused by the Reckless Conduct (as defined under the CCA) of the Company.

**8. GENERAL**

- 8.1. 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.
- 8.2. 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.
- 8.3. 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.
- 8.4. 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.
- 8.5. To the extent necessary to enable either the owner of the Premises or any other Indemnified Parties to take the benefit of the provisions in this Disclaimer (including without limitation clauses 6 and 7 as applicable), the Company holds the benefit of the provisions on trust for those parties.
- 8.6. The Company may refuse to supply any particular Services (including by not permitting me to undertake the Activities) at any time prior to my receiving those Services (including by participating in the Activities), and in that case, the Company will provide a refund of any fees already paid for those Services.
- 8.7. The Indemnified Parties (other than the Company) are intended third party beneficiaries of this Disclaimer, and to the extent necessary to give effect to that intention, the Company holds the benefit of this Disclaimer on trust for them.

**IMPORTANT NOTICE – BY SIGNING THIS DISCLAIMER, I AM DEEMED TO HAVE READ & UNDERSTOOD THIS DISCLAIMER, & AGREED TO BE BOUND ITS TERMS. I ACKNOWLEDGE & AGREE THAT THIS DISCLAIMER APPLIES TO ALL ACTIVITIES THAT I PARTICIPATE IN ON THE DATE THAT I SIGN THIS DISCLAIMER.**

Executed as an agreement in favour of the Company and all other Indemnified Parties:

Name:		Date of birth:	
Signature:		Date:	

**CONSENT OF PARENT / GUARDIAN / RESPONSIBLE ADULT (FOR AND ON BEHALF OF PERSONS UNDER 18 YEARS OLD); AND INDEMNITY**

I, (name) \_\_\_\_\_, being the parent and/or guardian and/or responsible adult of the following named minor(s) \_\_\_\_\_ (each being a “Minor”), warrant that I am duly authorised, for each Minor (and/or by their parent or guardian, where I am signing as a responsible adult), to agree to the terms of this Disclaimer for and on their behalf. 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. On behalf of each Minor, I agree to the Disclaimer and give my full consent and approval to each Minor participating in the Activities at their own risk.

In consideration of the Company allowing each Minor to participate in the Activities, the receipt and sufficiency of which I acknowledge and agree, I will hold harmless, indemnify and keep indemnified the Company and the other Indemnified Parties against all Claims which may be incurred or sustained by any of the Indemnified Parties, in connection with any of the matters identified in clause 6.1.1 to 6.1.4 above (inclusive) suffered by any Minor, howsoever arising from or in relation to their presence at the Premises or their participation in the Activities, including whether arising because of negligence, breach of contract, statute or statutory duty or otherwise, but not where and to the extent caused by the Reckless Conduct of the Company in relation to any significant personal injury of that Minor. To the extent necessary, I intend this to operate as a deed poll in favour of the Company and the other Indemnified Parties.

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