

PERISHER, MOUNT HOTHAM AND FALLS CREEK PRODUCT & SERVICE TERMS AND CONDITIONS

Version 2023.1.1, Current as at 17 March 2023

1. An indirect, wholly-owned subsidiary of Vail Resorts, Inc (**Vail**), being, as applicable, Perisher Blue Pty Limited ACN 061 232 488 as trustee for Snow Trust ABN 29 420 214 757 (**Perisher Blue**), Falls Creek Ski Lifts Pty Ltd ACN 004 843 761 (**FCSL**), or Mount Hotham Skiing Company Pty Ltd ACN 004 294 697 (**MHSC**) (collectively, the **Suppliers**), owns and operates the Perisher Blue, FCSL or MHSC websites (**Websites**).
2. The Suppliers supply a range of products and services in Australia at the Perisher, Mount Hotham and Falls Creek alpine Resorts (**Resorts**), including products and services that provide access to and use of ski and snowboard slopes at the Resorts, **Ski Lifts** (chair lifts, t-bars, poma lifts, moving carpet and tow ropes), snowtubing, the Skitube, tobogganing, ski and snowboard (**Snowsports**) school lessons, Snowsports equipment hire, snowbikes, club and training programs (including season-long programs), and other recreational activities at the Resorts. These terms and conditions (**Terms and Conditions**) apply to the sale, purchase, booking and use of all such products and/or services supplied by the Suppliers, including those supplied by way of package (**Products & Services**). For the avoidance of doubt, the Products & Services include reusable cards used for recording or redeeming purchased Products & Services sold by the Suppliers with respect to the Resorts (**Mountain Access Cards**).
3. In these Terms and Conditions, Vail and the Suppliers are referred to as “**we**”, “**us**”, “**our**” and includes our directors, employees, beneficiaries, and agents. The purchaser, holder or user of any Product or Service are referred to as ‘**you**’.
4. By accessing the Websites and/or booking, purchasing and/or using the Products & Services, you are agreeing to be bound by these Terms and Conditions and our Privacy Policy. If you choose not to be bound by these Terms and Conditions or Privacy Policy, the Suppliers do not grant you the right to use the Websites and the Suppliers will not sell or supply you with any of the Products & Services.
5. These Terms and Conditions, together with any Additional Terms and attachments, apply to and bind you, as purchaser, holder and/or user of Products & Services supplied by the Suppliers, whether booked or purchased via any of the Websites or by any other means (including by telephone, postal order, or by visiting the relevant Suppliers' office, or through a third party).
6. If you book or purchase Products & Services from the Suppliers (via any of the Websites or by any other means) on behalf of another person, both you and that other person agree that you make that purchase as the authorised agent of that other person so that he/she is bound by these Terms and Conditions and Privacy Policy (including with respect to that person's use of any Products & Services).

YOU SHOULD BE AWARE OF SEVERAL KEY TERMS

These Terms and Conditions, including any additional terms, form the agreement between you and the Suppliers, and apply to the sale, purchase, booking and use of all Products & Services supplied by the Suppliers. In this summary we outline some of the key terms that apply to you. This summary is designed to assist you by disclosing and summarizing certain terms that affect you. However, it is not a substitute for reading and understanding the Terms and Conditions as a whole and it does not amend the Terms and Conditions. Please contact us if you have any questions. Our contact points are set out at the end of these Terms and Conditions.

COVID conditions

Our Terms and Conditions include conditions enabling us to respond to the ongoing COVID-19 pandemic. This includes a condition that you must comply directions and requirements in place from time to time to maintain health and safety at our Resorts, accept responsibility for any failure to do so, and accept

personal responsibility and liability for any and all risks relating to COVID-19 while at our Resorts. We may need to operate under capacity constraints and are not responsible for any costs, loss or damage resulting from or related to a lack of lift ticket availability.

Cancellation and changes

Specific conditions apply to cancellations or changes to bookings in relation to Products & Services supplied under these Terms and Conditions. This includes a requirement that you make any cancellation or change request at least 48 hours prior to the starting time of the Product or Service, on the first day of your booking.

For example, where you have booked a three-day lift ticket or lesson, you must submit your request at least 48 hours prior to the starting time on the first day for which your lift ticket or lesson is booked.

All multi-day bookings (including lessons and lift tickets) are treated as a single product and/or service for the purpose of these Terms and Conditions and the specific terms regarding cancellations within.

Cancellations and change requests will incur a \$20 administration fee per booking. Net proceeds of such cancellations will be distributed as a credit voucher (Snow Credit), which can be used to purchase Products & Services and expires at the end of the Australian ski season immediately following the Australian ski season in which the original Product & Services were booked for. No cash refunds will be provided for such cancellations.

We must receive cancellation or change requests at least 48 hours prior to the starting time of the Product or Service, on the first day on the commencement or activation of the relevant Product or Service is scheduled to occur. No Snow Credit or refund will otherwise be offered unless we have failed to comply with the consumer guarantees under the Australian Consumer Law or are otherwise required by law to provide a refund, credit or other remedy.

No cancellations or changes are permitted after commencement or activation of the relevant Product or Service (except, in certain cases under the Terms and Conditions, where an injury or a medical condition prevents further use of the Products & Services).

Different terms apply to Winter Sports Club Season Long Programs, Season Passes and Season Long Locker Rental (see below).

Your assumption of risk

You acknowledge and assume risk under the Terms and Conditions in various respects. In particular, you engage in, participate, purchase, use or make use of any recreational activity that we provide at your own risk. Such recreational activity includes any and all Products & Services provided by the Suppliers associated with the use of the snow slopes and the mountains at the Resorts for recreational activities. You acknowledge that recreational activities are dangerous with many risks and hazards, and as a consequence personal injury (including serious personal injury) and sometimes death can occur. You acknowledge the risk warning set out prominently in the Terms and Conditions and acknowledge that this constitutes a reasonable risk warning pursuant to the *Civil Liability Act 2002 (NSW)* and any equivalent legislation. You must observe and comply with the Alpine Responsibility Code and follow all signs and follow all directions given by us.

Exclusion and limitation of liability

Our liability to you and certain third parties is excluded and limited under the Terms and Conditions in certain respects, including:

- a. in connection with your breach of these Terms and Conditions, your use or access of any Website, the purchase or use by you of any Products & Services, your failure to comply with any laws and / or the Alpine Responsibility Code or your infringement of any rights of any third party; among other circumstances) – and to the fullest extent permitted by law, you indemnify us against any loss, liability, damage, cost or expense that we incur arising directly or indirectly in connection with these matters;
- b. in accordance with the exclusion / limitation of liability with respect to recreational services expressly permitted by law.

Under the Australian Consumer Law (and similar legislation of Australian states and territories including the application of the Australian Consumer Law), certain statutory guarantees are conferred in relation to the supply of goods or services to a consumer. The operation of these consumer guarantees cannot be (and are not in these Terms and Conditions) excluded, restricted or modified.

Winter Sports Club Season Long Program

Additional terms apply to the purchase of a Winter Sports Club Season Long Program. Once initial payment or payment in full has been made, the purchase of the Winter Sports Club Season Long Program cannot be cancelled or refunded, unless we have failed to comply with the consumer guarantees under the Australian Consumer Law (see clause 15), are otherwise required by law to provide a refund or other remedy, or the program does not run as scheduled or a season ending injury precludes participation in the program for the remainder of the season. Participants are required to sign/e-sign a release of liability.

Snowsports School Lesson Products

You must check-in to your lesson at the meeting location at least 10 minutes prior to your lesson start time. All start times are published on each resorts webpages. If you are late to your lesson and we are not able to accommodate you for that day or reschedule your lesson, you accept that we may refuse to provide you with a credit or refund.

We reserve the right to cancel or change lesson dates/times due to availability of instructors or appropriate terrain. Lessons which we cancel due to conditions or instructor availability will either be rescheduled, or a refund will be issued at our discretion.

Season Passes

Additional terms apply to the purchase of a Season Pass. Once initial payment or payment in full has been made, the purchase of a Season Pass cannot be cancelled or refunded, unless we have failed to comply with the consumer guarantees under the Australian Consumer Law (see clause 15), or are otherwise required by law to provide a refund or other remedy, or certain Medical/Injury Refund Events occur (see Additional Terms) which mean you are unable to use your Season Pass for the season (in which case you may be eligible for a full or partial refund of the pass purchase, subject to eligibility, verification and other requirements). Due to the impacts of COVID-19, access to one or more of Perisher, Falls Creek or Mount Hotham Resorts (as applicable) under a Season Pass in the 2023 Australian Ski Season is subject to certain conditions, including that the holder of a Season Pass (**Season Pass Holder**) may be required to make an online reservation (in advance) for each individual day that they plan to use the Season Pass (and lift access will not be provided without advance reservation) and a Fair Use policy applies to reservations. Pass holders (**Season Pass Holders**) are required to sign/e-sign a release of liability.

Travelling to and accessing the Resorts

The purchase of Products & Services do not include any entitlement to car parking at the Resorts unless the specific terms relevant to the purchase of those Products & Services state otherwise.

Car parking is not deemed to be within the Resorts and may be limited from time to time. It is your responsibility to check with the specific Resort you wish to visit and plan ahead to ensure that you are able to access car parking, or alternatively use a shuttle service or the Skitube (where relevant).

Please check our websites for more information about how to access the Resorts.

Season Long Locker Rental

Additional terms apply to the purchase of a Season Long Locker Rental. Once initial payment or payment in full has been made, the purchase of a Season Long Locker Rental cannot be cancelled or refunded, unless we have failed to comply with the consumer guarantees under the Australian Consumer Law (see clause 15), are otherwise required by law to provide a refund or other remedy, or a season ending injury precludes use of the locker for the remainder of the season.

No transfer

Products & Services are for personal use only and must not be used by another person, resold, transferred or altered in any manner. Use of your Products & Services by another party may result in the confiscation, cancellation and/or refusal to re-issue the relevant Products & Services, in which case no credit or refund will be provided.

Publicity and Privacy

By using Products & Services (including participating in any Products & Services), you grant us and our affiliates the right of publicity to collect and use any image collected of you while using Products & Services supplied by the Suppliers, in order to promote the Products & Services.

The Vail Resorts Global Privacy and Cookie Policy (Privacy Policy) sets out our policies on the collection and management of personal information and we are required to comply with the provisions of the *Privacy Act 1988*. For information regarding the kind of personal information collected, how information is collected, the purposes for which the information is collected, and how you can access, delete or correct personal information, please read our Privacy Policy available on our websites.

SPECIAL CONDITIONS APPLYING TO 2023 AUSTRALIAN SKI SEASON DUE TO COVID-19 PANDEMIC

7. We may need to implement a range of measures and actions to respond to the COVID-19 pandemic, including to follow social distancing and other COVID-19 related public health orders, requirements, directions and guidelines, and to otherwise **maintain health and safety at our Resorts**. You acknowledge and agree that these measures may **change** from time to time and may change on short notice. We require all guests, as a condition of access and use of our Resorts, to **regularly check our** resort websites and other communications to stay abreast of current measures and requirements at our Resorts.
8. It is a condition of your purchase and/or use of any Products & Services from the Suppliers that you **follow** all directions and requirements in place from time to time to **maintain health and safety** at our Resorts, including without limitation:
 - a. Complying with applicable government public health orders, directions, requirements or restrictions (including in relation to testing, quarantine, isolation, tracing or reporting) in place at the time;
 - b. If required by the Suppliers or if required under any public health order, direction or similar requirement,

- providing proof of COVID-19 vaccination or valid medical exemption
- c. Providing, upon request, a COVID-19 health declaration;
- d. Observing social distancing requirements;
- e. Observing face covering requirements;
- f. Permitting us to provide personal and / or health information to public health or other government authorities where we are required by law to do so or where the authority has a legal right to request such information to assist with contact tracing or other efforts to manage the COVID-19 pandemic (please refer to our privacy policy).

Failure to follow such directions and requirements may result in forfeiture of the Product and / or Service, and / or associated privileges or benefits.

9. You acknowledge and agree that it is **your responsibility** to follow and observe all directions and requirements in place from time to time to maintain health and safety at our Resorts as set out in clause 8 and that we have no liability for any failure to do so. To the maximum extent permitted by law, we exclude all responsibility and liability arising as a result of you not being able to access our Resorts or use any Products & Services (in whole or part) because of your failure to comply with these directions and requirements.
10. You acknowledge and agree that, despite measures and actions taken to maintain health and safety at our Resorts, we are unable to prevent or avoid all risks relating to COVID-19 in the alpine environment and you **accept personal responsibility and liability** for all risks relating to COVID-19 while at our Resorts.
11. **Capacity constraints** – Due to social distancing and other COVID-19 requirements which need to be observed at our Resorts from time to time, during some, if not all of the 2023 Australian ski season, our Resorts **may operate to specific capacity constraints** and on the basis of inventory-controlled lift ticket access which enables us to effectively and flexibly measure and manage capacity. During all of the 2023 Australian ski season, lift tickets will **only be available for purchase online and in advance** and are **subject to available inventory**. Until further notice, no tickets will be available for purchase at the window on the day. A lift ticket must only be used by the person to whom it is issued and must not be used by another person, resold, transferred or altered in any manner. Should this provision be breached, the lift ticket in question will be cancelled with no credit or refund being payable and the respective Suppliers reserve the right to refer the matter to the police. Capacity constraints mean that we **cannot guarantee that lift tickets will be available on a particular day** and guests should check availability and purchase tickets in advance and prior to finalising any related travel or accommodation plans. We are **not responsible** for any costs, loss or damage resulting from or related to a lack of lift ticket availability on a given day.
12. **Fair Use policy** – Given that we may be operating to specific capacity constraints at our Resorts due to COVID-19 and on the basis of inventory controlled lift ticket access, to ensure that all guests have fair and equitable ticket access, a 'fair use' policy applies and guests must not seek to purchase an excessive, irrational or unreasonable number of days, or for any day(s) on which they do not, at the time of purchase, have a **genuine intention** to ski or snowboard, and **guests must not purchase lift tickets for re-sale or transfer** (or resell or transfer lift tickets). We reserve the right to suspend or cancel a lift ticket if we, acting reasonably, consider that the guest has not complied with this Fair Use policy.
13. **Resort closures** – You will be entitled to a cash refund of the purchase price of the Products & Services in your booking, if government public health orders, directions, requirements, or restrictions result in the closure of the relevant Resort being closed to visitors at the time of your intended arrival at that Resort (based on the dates of your booking). If this applies to your booking, please contact us (with the email subject line 'Resort Closure Refund') via:
 - a. for Products & Services supplied by Perisher, info@perisher.com.au or made in person at any Perisher Ticket Office; or
 - b. for Products & Services supplied by Mount Hotham, tickets@hotham.com.au or made in person at any Mount Hotham Ticket Office; or
 - c. for Products & Services supplied by Falls Creek, info@falls creek.net or made in person at any Falls Creek Ticket Office.

14. We retain the right, acting reasonably, to vary these Terms and Conditions from time to time to further respond to the COVID-19 pandemic (including in response to any government or health orders, directions, or requirements) and its impact on the operations of our Resorts and the health and safety of guests and employees at our Resorts. Any variations become effective on posting of the changes on the Websites and we encourage users to access and review this document regularly to keep abreast of such changes.

YOUR CONSUMER RIGHTS

15. THE AUSTRALIAN CONSUMER LAW (AND APPLICABLE STATE AND TERRITORY CONSUMER LAWS) (**AUSTRALIAN CONSUMER LAW**) PROVIDES CONSUMERS WITH A NUMBER OF CONSUMER GUARANTEES THAT CANNOT BE EXCLUDED, RESTRICTED OR MODIFIED. THESE CONSUMER GUARANTEES PROVIDE CONSUMERS WITH A BASIC, GUARANTEED LEVEL OF PROTECTION FOR PRODUCTS OR SERVICES THAT THEY ACQUIRE FROM US, INCLUDING (FOR EXAMPLE) IN THE CASE OF PRODUCTS, GUARANTEES THAT PRODUCTS ARE OF ACCEPTABLE QUALITY AND FIT FOR ANY PURPOSE MADE KNOWN BY THE CONSUMER BEFORE BUYING AND, IN THE CASE OF SERVICES, A GUARANTEE AS TO (I) DUE CARE AND SKILL (II) FITNESS FOR A PARTICULAR PURPOSE; AND (III) REASONABLE TIME FOR SUPPLY. WHERE YOU ARE ACQUIRING OUR PRODUCTS OR SERVICES AS A CONSUMER YOU ARE ENTITLED TO THE BENEFIT OF THESE GUARANTEES. IF WE FAIL TO LIVE UP TO ANY OF THESE CONSUMER GUARANTEES FOR A RELEVANT PRODUCT OR SERVICE WE PROVIDE, YOU MAY BE ENTITLED TO A REMEDY UNDER THE AUSTRALIAN CONSUMER LAW. IF THE BREACH OF THE CONSUMER GUARANTEES CANNOT BE REMEDIED OR AMOUNTS TO A MAJOR FAILURE, YOU ARE ENTITLED TO A REFUND OR OTHER REMEDIES UNDER THE AUSTRALIAN CONSUMER LAW. YOU MAY ALSO BE ENTITLED TO COMPENSATION FOR REASONABLY FORESEEABLE LOSSES CAUSED BY THE FAILURE. THESE TERMS AND CONDITIONS, AND IN PARTICULAR PROVISIONS RELATING TO REFUNDS / CANCELLATIONS, WARRANTIES AND EXCLUSION OR LIMITATIONS OF LIABILITY, **ARE THEREFORE SUBJECT TO, AND WILL NOT APPLY TO THE EXTENT THAT THEY EXCLUDE, RESTRICT OR MODIFY SUCH PROTECTIONS AND ANY CONSUMER GUARANTEES APPLICABLE TO CONSUMERS**, EXCEPT TO THE EXTENT WE ARE PERMITTED BY LAW TO SO EXCLUDE, RESTRICT OR MODIFY.

VARIATION

16. We retain the right, acting reasonably, to vary these Terms and Conditions from time to time, provided that the variation does not materially adversely affect the nature of the Products & Services purchased. Any variations become effective on posting of the changes on the Websites. **By making a purchase through the Websites, you agree to be bound by these Terms and Conditions and our Privacy Policy and by any later variation to them when posted on the Websites. We encourage users to access and review this document regularly to keep abreast of such changes.**

BOOKING, DELIVERY ETC

17. You may offer to purchase any Products & Services described in any of the Websites for the price specified on the relevant Website.
18. You are responsible for ensuring the accuracy of your order or booking (**booking**) for the Products & Services.
19. Each product and / or service must be assigned to individual guests at the time of purchase. Assignment of Products & Services cannot be altered after the booking has been made other than where permitted under clause 15 or where accommodated under these Terms and Conditions.
20. All multi-day Products & Services (such as lift-tickets and ski lessons) are deemed a single product or service under these Terms and Conditions, including for the purpose of any refund or change requests.

21. Your submission of a booking of Products & Services via any of the Websites constitutes an offer subject to acceptance by us.
22. The price of the relevant Products & Services is the price displayed on the relevant Website on the date of your booking (inclusive of goods and services tax and any other charges which must be mandatorily disclosed under the *Competition and Consumer Act 2010* (Cth) (**CCA**) but exclusive of any delivery charges which are payable by you).
23. All prices for the Products & Services advertised or displayed on the Websites are quoted in Australian dollars and must be paid in full, including any applicable delivery charges, except where discounts are offered as detailed on the relevant Website at the relevant time.
24. The Suppliers may vary the advertised or offered price of a Product or Service, but (subject to clause 25 and any other provision of these Terms and Conditions) once a booking is confirmed, the price of the Product or Service you have purchased will not change.
25. You acknowledge that, despite our reasonable precautions, Products & Services may be listed on the Websites at an incorrect price, with incorrect information, or which are unavailable due to a typographical error or other oversight. In these circumstances, we reserve the right to cancel the transaction, notwithstanding that your order has been confirmed and your credit card has been charged. We reserve this right up until the time of delivery or use of the product or service. If a cancellation of this nature occurs after your credit card has been charged for the purchase we will promptly, or as soon as practical, issue a credit to your credit card account for the amount.
26. Where requested, your booking for Products & Services must contain your name, postal address, phone number, date of birth, e-mail address, a recent passport style photo, credit card details and any other ordering information specified on the relevant Website.
27. Payment for Products & Services must be made by credit card using the ordering facility on the relevant Website. For purchases made via one of the Websites, confirmation of your purchase will be sent to your nominated email address.
28. We will supply you, subject to availability and these Terms and Conditions, with the Products & Services set out in your booking.
29. Products & Services are available for sale only to persons who can make legally binding contracts. Parents and Guardians may purchase Products & Services on behalf of a minor. If you purchase a Product and / or Services for or on behalf of another person, you must inform that person of these Terms and Conditions and ensure that person accepts these Terms and Conditions.
30. Where Products & Services are delivered, the Supplier's carrier shall be Australia Post unless you otherwise instruct and as provided for within the Terms and Conditions. Products & Services shall be delivered to the address nominated within your order. Once the Supplier delivers possession of Products & Services to its carrier, liability for damage and loss also passes to the carrier. Any indicated delivery times are only approximate, and the Suppliers will not be held liable for any delay in the delivery of the Products & Services, howsoever caused. It is your responsibility to allow adequate time for delivery of Products & Services.
31. Where applicable, if you opt to collect your Products & Services directly from our premises you will need to provide a valid photo ID showing your date of birth and the credit card used for the purchase. You must allow adequate time for collection of the Products & Services.
32. If you purchase Products & Services by telephone, post or by visiting one of our offices then any such purchase will be governed by these Terms and Conditions (including the terms and conditions above relating to ordering, booking, price and payment), excluding any of the Terms and Conditions that are specific or only applicable to purchases made using the Websites.

BOOKING CHANGES AND CANCELLATIONS

33. These booking change and cancellation provisions in clauses 33 to 38 apply to all bookings of Products & Services, **except** Winter Sports Club Season Long Programs, Season Passes, the Epic Australia Pass and Season Long Locker Rental. Please refer to clauses 49 through to 62 for specific terms and conditions relating to changes and cancellations with respect to Winter Sports Club Season Long Programs, Season Passes and Season Long Locker Rental. The Epic Australia Pass is subject to its own terms and conditions, which can be found on the Epic Australia Pass website.
34. **Cancellations and changes** to bookings with respect to Products & Services will only be accepted from or sent to the person in whose name the booking is made (or a parent or guardian, in the case of a booking made in the name of a minor) and will be confirmed via email. All requests for cancellations and changes to bookings must be submitted and confirmed in writing, via the following details at least 48 hours prior to the first day of a single or multi day booking of products & services:
- a. for Products & Services supplied by Perisher, info@perisher.com.au or made in person at any Perisher Ticket Office; or
 - b. for Products & Services supplied by Mount Hotham, tickets@hotham.com.au or made in person at any Mount Hotham Ticket Office; or
 - c. for Products & Services supplied by Falls Creek, info@falls creek.net or made in person at any Falls Creek Ticket Office.
 - d. for private lesson bookings at Perisher, privates@perisher.com.au or made in person at any Perisher Ticket Office; or
 - e. for private lesson bookings at Mount Hotham, privates@hotham.com.au or made in person at any Mount Hotham Ticket Office; or
 - f. for private lesson bookings at Falls Creek, privates@falls creek.net or made in person at any Falls Creek Ticket Office;
35. Subject to and except as set out in clause 15:
- a. We must receive your request for a change to, or the cancellation of a booking at least 48 hours prior to the starting time of the Product or Service, on the first day of your booking. For example, where you have booked a three-day lift ticket or lesson, you must submit your request at least 48 hours prior to the starting time on the first day for which your lift ticket or lesson is booked.
 - b. For the avoidance of doubt, all multi-day bookings (including lessons and lift tickets) are treated as a single product and/or service for the purpose of these Terms and Conditions.
 - c. Changes and cancellations to a booking will incur a \$20 administration fee per booking; and
 - d. Refunds will only otherwise be provided if we have failed to comply with the consumer guarantees under the Australian Consumer Law (see clause 15), or are otherwise required by law to provide a refund, credit or other remedy.
36. **Changes** with respect to the price of Products & Services will be based on the applicable price **at the time of the change** and not the price at the date of the original booking.
37. Any net proceeds from a **cancellation** or **change** will be **distributed via a credit voucher** assigned by the relevant Supplier to the guest that can be used at a future date to offset the cost of purchasing further Products & Services (a **Snow Credit**). **Cash refunds will not be provided for cancellations or change**. The Snow Credit can be used across multiple purchasers for the guest or their immediate family until the full value of the net proceeds of the Snow Credit are exhausted or until it **expires** at the end of the Australian ski season immediately following the 2023 Australian ski season.
38. Subject to and except as set out in clause 15, **following commencement** or activation (as applicable) of Products & Services, **no cancellations or changes to bookings may occur** and no Snow Credit or refund will be offered unless we have failed to comply with the consumer guarantees under the Australian Consumer Law (see clause 15) or are otherwise

required by law to provide a refund, credit or other remedy. However, if after the commencement or activation of a product and/or service, an injury or medical condition is sustained and diagnosed by a an AHPRA-registered Doctor (as defined in clause 54 below) preventing a guest from making further use of:

- a. a multi-day lift ticket;
- b. multi-day Skitube only ticket;
- c. multi-day ski / snowboard school group lessons;
- d. ski / snowboard private lessons; and
- e. Winter Sports Club short term training during the 2023 Australian ski season,

a **Snow Credit** may be assigned by a Supplier at its reasonable discretion (and upon presentation of medical evidence which that Supplier deems satisfactory) to the guest that can be used at a future date to offset the cost of purchasing further Products & Services.

The Snow Credit expires at the end of the Australian ski season immediately following the 2023 Australian ski season.

For further details please email:

- a. for Perisher, Perisher Guest Services at info@perisher.com.au
- b. for Mount Hotham, Mount Hotham Guest Services at tickets@hotham.com.au
- c. for Falls Creek, Falls Creek Guest Services at info@falls creek.net

EXCLUSION AND LIMITATION OF LIABILITY – YOUR ASSUMPTION OF RISK – THESE CONDITIONS AFFECT AND RESTRICT YOUR LEGAL RIGHTS

39. To the fullest extent permitted by law and subject to clause 15, we are not liable for any loss, damage or injury whatsoever (including, without limitation, direct, indirect, incidental, special and/or consequential loss or damages (including but not limited to loss of profits, revenue, expectation, business, goodwill or data), whether arising under contract, tort (including negligence) or any statutory cause of action, resulting directly or indirectly from or arising in connection with:

- a. your breach of these Terms and Conditions;
- b. your use of or access to any of the Websites, including but not limited to the electronic payment facility;
- c. the purchase or attempted purchase of any Products or Services offered provided by the Suppliers;
- d. the use by you of any Products & Services provided by the Suppliers;
- e. your failure to comply with any laws and / or the Alpine Responsibility Code; or,
- f. your infringement of the rights of any third party,

except liability arising as a direct result of any negligence, fraud, willful misconduct, or breach by us, and where our liability cannot be excluded, we limit our liability to the maximum extent that we are permitted by law to do so.

40. To the fullest extent permitted by law, and subject to clause 15, you indemnify and keep indemnified us against any loss, liability, damage, cost or expense that we incur arising directly or indirectly in connection with:

- a. your breach of these Terms and Conditions;
- b. your use of or access to any of the Websites, including but not limited to the electronic payment facility;
- c. the purchase or attempted purchase of Products & Services offered or provided by the Suppliers;
- d. the use by you of any Products & Services provided by the Suppliers;
- e. your failure to comply with any laws and / or the Alpine Responsibility Code; or
- f. your infringement of the rights of any third party,

except to the extent that liability, damage, cost or expense is a direct result of any negligence, fraud, willful misconduct or breach by us.

41. Where you seek to or do order, book, purchase or use any of the Products & Services provided by the Suppliers, then you **acknowledge the risk warning set out below and acknowledge and agree to the following terms:**

- a. You engage in, participate, purchase, use or make use of any recreational activity that we provide **at your own risk**. Such **recreational activity includes any and all Products & Services provided by the Suppliers** associated with the use of the snow slopes and the mountains at the Resorts for recreational activities, including but not limited to skiing (including alpine, nordic, freestyle and mogul skiing), snowboarding, tubing, snowbikes, mountain biking and sightseeing, the provision and operation of ski lifts, riding on ski lifts, snowmaking, snow slope design, construction, maintenance and grooming, hazard assessment and mitigation, skiing and snowboarding lessons or instruction, club, team or development skiing or snowboarding programs and training, skiing or snowboarding competitions, and clothing and equipment rental;
- b. You acknowledge that recreational activities are **dangerous with many risks and hazards**, and as a consequence personal injury (including serious personal injury) and sometimes death can occur;
- c. You **acknowledge the risk warning set out in bold below** and that the warning constitutes a reasonable risk warning pursuant to the *Civil Liability Act 2002* (NSW) and any equivalent legislation;
- d. You acknowledge that you will **observe and comply with the Alpine Responsibility Code** (a copy of which is included in these Terms and Conditions at Attachment A) and that you will conduct yourself in a safe and controlled manner at all times. Failure to do so, or any reckless or careless conduct, may result in us suspending or deactivating the ski lift access component of Products & Services;
- e. **You must read and follow all signs and follow all directions given by us;**
- f. Subject to clause 15, to the maximum extent permitted by law, we exclude all liability to you, including for negligence and whether the loss or damage has occurred to person or property. Where that liability cannot be excluded, we limit our liability to you to the maximum extent permitted by law;
- g. You acknowledge that the recreational activities provided by the Suppliers constitute "**Recreational Services**" as defined in the CCA and applicable state legislation (including the *Australian Consumer Law and Fair Trading Act 2012 (Vic)*) and that, to the maximum extent permitted by the CCA and applicable state legislation:
 - i. you assume and accept the risks associated with the recreational activities;
 - ii. except to the extent that the law (including the Australian Consumer Law, CCA or any equivalent state legislation) provides that liability cannot be excluded, we exclude any liability to which the *Civil Liability Act 2002* (NSW) applies that results from any breach of any express or implied warranty that the recreational services we provide will be rendered with reasonable care and skill;
 - iii. we exclude liability to you (including liability arising out of any failure by us to comply with any consumer guarantees applying to any recreational activities) for:
 1. death;
 2. personal injury;
 3. the contraction, aggravation or acceleration of a disease; and
 4. 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:
 - a. that is or may be harmful or disadvantageous to an individual or community; or,
 - b. that may result in harm or disadvantage to an individual or community, except with respect to significant personal injury that is caused by the reckless conduct of the Suppliers;
 - c. you waive the right to sue the Suppliers for any personal injury or death suffered by you in any way whatsoever caused by or arising from your use of or participation in any recreational activities supplied by the Suppliers, except with respect to significant personal injury that is caused by the reckless conduct of the Suppliers;

For the purposes of the *Australian Consumer Law and Fair Trading Act 2012 (VIC)*:

WARNING: If you participate in these activities your rights to sue the Suppliers under the **Australian Consumer Law & Fair Trading Act 2012** if you are killed or injured because the activities were not supplied with due care and skill or were not reasonably fit for their purpose, are excluded, restricted or modified in the way set out above in this notice.

NOTE: The change to your rights, as set out in or on this notice, does not apply if your death or injury is due to gross negligence on the Suppliers' 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 & Fair Trading Regulations 2012 and section 23(3)(b) of the **Australian Consumer Law & Fair Trading Act 2012**.

IMPORTANT – RISK WARNING!

The terms and conditions set out in these Terms and Conditions, together with the Risk Warning displayed below, form part of the conditions of entry and use of our facilities, equipment and services, including (without limitation) any use of the Products & Services.

RISK WARNING:

ALPINE RECREATIONAL ACTIVITIES INCLUDING, BUT NOT LIMITED TO, SKIING, SNOWBOARDING, USING LIFTS, SNOWTUBING, TOBOGGANING, AND SNOW PLAY INVOLVE SIGNIFICANT RISKS WHICH MAY RESULT IN PHYSICAL HARM, INCLUDING PERSONAL INJURY, PERMANENT DISABILITY OR EVEN DEATH.

SUCH RISKS AND HARM MAY RESULT FROM YOUR ACTIONS AND/OR OMISSIONS OR THOSE OF OTHERS. THESE RISKS INCLUDE, BUT ARE NOT LIMITED TO: COLLISIONS WITH ANOTHER PERSON, OBJECTS, SURFACES OR TERRAIN; LOSS OF CONTROL AND/OR DIRECTION AND/OR FALLING AT ANY TIME, INCLUDING WHILE PARTICIPATING IN ALPINE ACTIVITIES OR WHILE USING LIFTS; AND UNEXPECTED CHANGES IN WEATHER AND SNOW CONDITIONS.

IF YOU BREACH ANY OF THESE TERMS AND CONDITIONS, WE MAY REQUIRE YOU TO FORFEIT THE LIFT ACCESS COMPONENT OF THE PRODUCT OR SERVICE, AND YOU WILL LOSE ANY PRIVILEGES ASSOCIATED WITH THE PRODUCT OR SERVICE.

Skiers/snowboarders must observe the Alpine Responsibility Code and ski/ride in a safe manner at all times. Failure to do so may result in a suspension or forfeiture of skiing/snowboarding privileges, and / or suspension or cancellation of your Mountain Access Card and / or access to recreational activities provided by the Suppliers.

PRODUCTS AND SERVICES – GENERAL

42. Where you seek to or do order, book, purchase or use any of the Products & Services provided by the Suppliers, then you acknowledge and agree to the following terms and conditions:
- a. You **agree to follow the rules** of the Suppliers and Perisher, Mount Hotham and Falls Creek (as applicable) related to **access and safe skiing and riding** and understand that failure to adhere to such rules may result in the loss of your benefits or privileged associated with the Products and / or Services;
 - b. The Products & Services are for **personal use only** and must not be used by another person, resold, transferred or altered in any manner. Use of your Product or Service by another party may result in the Product being confiscated and not re-issued or Services being cancelled, and no credit or refund will be provided. Fraud is a criminal offence and may invoke police action;
 - c. The relevant Product and / or Service may be **confiscated and not re-issued or cancelled**, if, in our

reasonable judgment, you 1) act in a manner that could endanger the **safety** of any person; 2) violates the law; 3) provide ski lessons or related services for compensation; 4) engage in fraud (including where a party other than the individual named on the product uses the product) or misconduct or creates a nuisance; or 5) fail to adhere to these Terms and Conditions. We may decide in our discretion to re-issue Products & Services after confiscation and the re-issue passes may be subject to a reasonable replacement fee or continue the Products & Services;

- d. Products & Services are only valid during the **period** for when they are sold or advertised and/or as indicated on or with the relevant product or service, and not in any other period;
- e. You may only purchase Products & Services for a person which is relevant for their age at the time of using the Product and / or Service (or in the case of Season Passes, at 10 June 2023), and suitable age identification (e.g. birth certificate, driver's licence etc.) is required for students and seniors. Students may be required to provide a letter of enrolment to confirm their full-time attendance at High School / Secondary College;
- f. Resort facilities (and related Products & Services) may be closed or operate in a reduced way from time to time for **weather, health, safety, or other operational reasons** (or as a result of government public health orders, directions or guidance), as reasonably directed or determined by us;
- g. The purchase of Products & Services does not entitle you to use the resort facilities at any of the Supplier's Resorts for any commercial purpose except with our prior written consent and does not entitle you to provide or receive ski or snowboard instruction except where provided by us; and
- h. By using Products & Services (including participating in any Products & Services), you grant us and our affiliates the right of publicity to own and use any image collected of you while using any Product or Service supplied by the Suppliers.
- i. We will not tolerate abusive or aggressive behaviour from our customers. We will refuse to deal with and may confiscate or cancel relevant Products & Services (without providing a refund and/or credit) of any guest or customer who acts in a manner we (acting reasonably) deem unacceptable. This may include but is not limited to:
 - i. using abusive, offensive or threatening language or behaviours;
 - ii. inappropriate or abusive behaviours including uninvited physical contact, harassment, violence or threat of violence;
 - iii. behaviour involving or related to intoxication or the excessive consumption of alcohol;
 - iv. the possession, carriage or use of restricted substances or drugs (unless medically prescribed);
 - v. the possession, carriage or use of dangerous items (such as weapons);
 - vi. illegal conduct; and
 - vii. any other conduct which we may reasonably deem to represent a risk to health and wellbeing.

LIFT TICKET – ADDITIONAL TERMS

43. All references to "**lift tickets**" in the Terms and Conditions relevantly includes:

- a. Any ticket media that provides access to the ski lifts operated by the Suppliers (whether it scans at a lift or Skitube platform loading area), including a Mountain Access Card and a package that comprises any combination of lift or lessons or hire products; and
- b. Any other type of access to ski lifts or to Skitube that you have purchased.

44. With respect to Mountain Access Cards:

- a. A Mountain Access Card is a reusable card which is required for every individual guest and must be purchased from the Suppliers **at a cost of AUD \$5** in addition to any ski lift access fees.
- b. A Mountain Access Card does not entitle the holder of the card to any ski lift access without the purchase of a ski lift access product.
- c. A Mountain Access Card must always be **carried** on your person while you are on the ski/snowboard

slopes and must be presented to the Suppliers' authorised personnel upon request.

d. Mountain Access Cards remain our property and must not be resold, transferred, or altered in any way.

45. You must purchase a lift ticket for the days on which you wish to ski or snowboard at the Resorts. The purchase of lift tickets is **subject to the Fair Use policy** (as set out in clause 12).

46. With the exception of specific Season Passes:

a. All valid lift tickets issued by Perisher Blue for the Perisher resort include unlimited use of Skitube between Perisher Valley and Blue Cow but are not valid for use at Falls Creek or Mount Hotham.

b. Unless otherwise specified at the time of sale, all valid lift tickets issued by FCSL for the Falls Creek resort are valid for use at the Falls Creek resort only and are not valid for use at Perisher or Mount Hotham.

c. Unless otherwise specified at the time of sale, all valid lift tickets issued by MHSC for the Mount Hotham resort are valid for use at the Mount Hotham resort only and are not valid for use at Perisher or Falls Creek.

47. All valid lift tickets issued as Season Passes are **only valid for use at the resort(s) specified for that specific Season Pass**, which may be an individual resort or multiple Resorts.

48. With respect to any Products & Services which consist of or includes a lift ticket:

a. A lift ticket is **valid only for the dates or period purchased**.

b. A lift ticket remains our property. It must only be used by the person to whom it is issued and must not be used by another person, resold, transferred or altered in any manner. Should this provision be breached, the lift ticket in question will be **cancelled** and no credit or refund will be provided. **Lift ticket fraud is a criminal offence** which can result in a fine or imprisonment, and the Suppliers reserve the right to refer such matters to the police.

c. If you become aware that any lift ticket issued to you (or to another person at your request) has been lost or stolen, you must immediately report this to the relevant Supplier by email or by visiting an office of that Supplier.

d. You acknowledge and accept that any lift ticket issued to you (or to another person at your request) may be cancelled or suspended at the sole discretion of the relevant Supplier if:

i. an unauthorised person is found to be using it prior to you reporting it lost or stolen; or

ii. the user fails to comply with all signs or other directions of the Suppliers, or for reckless or careless conduct, or for breach of the Alpine Responsibility Code.

e. Subject to and except as set out in clause 15, we will not provide a refund, credit or replacement (in whole or part) for lift tickets if your lift ticket is lost or stolen. A lost, stolen or damaged Mountain Access Card may be replaced at a cost of AUD \$5;

f. You acknowledge and accept that:

i. lifts may be closed or operate in a reduced capacity from time to time for weather, health safety, or other reasonable operational reasons (or as a result of government public health, directions or guidance), as reasonably directed or determined by us, and/or

ii. the lift ticket may not entitle you to use some lifts as reasonably directed by us (including for health, safety or operational reasons), and

iii. subject to and except as set out in clause 15, we do not offer a refund, credit or replacement for lift tickets or other Products & Services in these circumstances;

g. You must carry your lift ticket on your person at all times on the snow slopes which must be presented to the Suppliers' employees or agents upon request.

WINTER SPORTS CLUB – SEASON LONG PROGRAMS – ADDITIONAL TERMS

49. For the purposes of these Terms and Conditions, a Winter Sports Club Season Long Program (**Winter Sports Club Season Long Program**) refers to:
- a. A **2023 Perisher Winter Sports Club Season Long Program**, but does not include Snowsports School Group or Private Lessons, Interschool or Private Race Training, Winter Sports Club short term training or Additional Training Days or Winter Sport Club Camps and Winter Sports Club Events; and
 - b. A **2023 Falls Creek Winter Sports Club Season Long Program**, but does not include Snowsports School Group or Private Lessons, Interschool or Private Race Training, Winter Sports Club short term training or Additional Training Days or Winter Sport Club Camps and Winter Sports Club Events.
50. Each Winter Sports Club Season Long Program is subject to the terms and conditions below, which are to be read in conjunction with all other terms and conditions in these Terms and Conditions and any notices and signs. You acknowledge and agree to the following:
- a. A Winter Sports Club Season Long Program is valid only during the period for which it is bought and not in any other period;
 - b. A participant will only be granted access to a Winter Sports Club Season Long Program where the Winter Sports Club Season Long Program is **paid for in full** prior to the Winter Sports Club Season Long Program's commencement;
 - c. By paying the initial payment or paying in full, you understand and acknowledge that you are committing to buy the Winter Sports Club Season Long Program(s) for the 2023 Australian ski season. When you pay the initial payment, you agree that the credit card provided will be authorised for the payment of the remaining amount of the program(s) purchased on the date advised at the time of purchase. Where you fail to pay the remaining balance when it falls due, you forfeit any right to the Winter Sports Club Season Long Program;
 - d. You understand and acknowledge that once the initial payment or payment in full has been paid, you will not be able to cancel or obtain a refund or credit on your Winter Sports Club Season Long Program purchase or payment (or any part thereof) unless:
 - a. we have failed to comply with the consumer guarantees under the Australian Consumer Law (see clause 15) or are otherwise required by law to provide a refund or other remedy; and / or
 - b. the Winter Sports Club Season Long Program was scheduled to operate on a given day but does not operate and no replacement (make up) day is offered by the Supplier. For each day on which this occurs, a pro-rata cash refund of the purchase price for the Program will be provided. This only applies where the Program does not operate – no refund or credit is available where the program operates as scheduled on a given day but the participant does not attend (for any reason) (subject to (c) below); or
 - c. the participant incurs a season ending injury (evidenced by a medical certificate) which precludes participation for the remainder of the Winter Sports Club Season Long Program. For each remaining day of the Program in which the participant is unable to participate, a pro-rata credit will be provided in the form of a Snow Credit which expires at the end of the Australian ski season immediately following the 2023 Australian ski season. Where a pro-rata credit is provided in these circumstances, the participant may not re-join the Winter Sports Club Season Long Program during the applicable season. **Your Winter Sports Club Season Long Program purchase (and any payment made for the program) cannot otherwise be cancelled or refunded (in whole or part), and your program purchase (and any payment made for the program) cannot be transferred or deferred to a future season.**
 - e. By choosing to buy a Winter Sports Club Season Long Program in accordance with our payment plan conditions where it is offered, you acknowledge and agree that you are liable for the entire amount payable and that we may lawfully recover any unpaid amounts from you, and that we can pursue all avenues of

- collection, including the use of collection agencies, to recover all charges and other unpaid amounts due, including reasonable legal fees, resulting from failure to pay all amounts when due, including under our payment plan;
- f. Any exceptions to the Winter Sports Club Season Long Program additional terms and conditions are at our sole discretion;
 - g. Participants in a Winter Sports Club Season Long Program are required to sign/e-sign a **release** of liability. Where a Participant is 17 years of age or younger, the Participant's parent or guardian is required to sign/e-sign a waiver and release of liability on their behalf.

SEASON PASSES - ADDITIONAL TERMS

- 51. For the purpose of these Terms and Conditions, a Season Pass refers to a lift ticket providing lift access to the Perisher, Falls Creek or Mount Hotham Resorts (but no other Resorts owned or operated by Vail Resorts or its partners) during the 2023 Australian ski season (**Season Pass**) For the avoidance of doubt, for the purpose of these Terms and Conditions, a Season Pass does **not** include the Epic Australia Pass.
- 52. Each Season Pass is subject to the terms and conditions below, which are to be read in conjunction with all other terms and conditions in these Terms and Conditions and any notices and signs. You acknowledge and agree to the following terms and conditions:
 - a. Due to the impacts of COVID-19, **access** to one or more of the Resorts (as applicable) under a Season Pass in the 2023 Australian ski season is subject to the following:
 - i. The Season Pass Holder may be required to make an **online reservation (in advance)** via our reservation system for each individual day that they plan to use the Season Pass, and lift access will not be provided without such advance reservation.
 - ii. A **Fair Use policy** applies – Given that we may be operating to specific capacity constraints and on the basis of inventory controlled access, and to ensure that all Season Pass Holders and other guests have fair and equitable ticket access, a 'fair use' policy applies to reservation and **Season Pass Holders must not reserve an excessive, irrational or unreasonable number of days**, or any day(s) on which they do not, at the time of reservation, have a genuine intention to ski or snowboard. We reserve the right to suspend or cancel the guest's Season Pass if we consider, acting reasonably, that they have not abided by this Fair Use policy.
 - b. The Season Pass Holder is responsible for promptly reporting if their Season Pass is lost, stolen or damaged by emailing info@perisher.com.au at Perisher, tickets@hotham.com.au at Mount Hotham and info@falls creek.net at Fall Creek. In these circumstances or if you forget to bring your Mountain Access Card, you can visit a Ticket Office where, upon presentation of valid Photo ID and the payment of a \$5 (AUD) administration fee, our staff can reissue a Mountain Access Card. You acknowledge and accept that you are liable for any use of your Season Pass that occurs while it is not in your possession, unless you have already reported it lost/stolen;
 - c. You **understand and acknowledge that once the initial payment or payment in full has been paid, you will not be able to cancel or obtain a credit or refund on your Season Pass purchase or payment (or any part thereof)** unless we have failed to comply with the consumer guarantees under the Australian Consumer Law (see clause 15), are otherwise required by law to provide a refund or other remedy, or a Medical/injury Pass Refund Event (as set out in clauses 53 to 59) is applicable. **Your Season Pass purchase (and any payment made for the pass) cannot otherwise be cancelled or refunded, and your pass (and any payment made for the pass) cannot be transferred or deferred to a future season;**
 - d. By choosing to purchase as Season Pass in accordance with our payment plan conditions where it is offered, you acknowledge and agree that you are liable for the entire amount payable and that we may lawfully recover any unpaid amounts from you, and that we can pursue all avenues of collection, including the use of collection agencies, to recover all charges and other unpaid amounts due, including reasonable legal fees, resulting from

- failure to pay all amounts when due, including under our payment plan;
- e. Your Season Pass is valid only during the 2023 Australian ski season and not in any other season or period;
- f. Where you purchase or reload a Season Pass online, you must upload a portrait photo of the Season Pass Holder's head and shoulders with their face clearly visible and unobstructed by goggles or buffs before 12 June 2023;
- g. You may not change the Season Pass Holder's name after purchase;
- h. Season Passes (and any upgrades to the pass if applicable) must be paid for in full before any lift access will be activated;
- i. Season Pass Holders are required to sign/e-sign a **release of liability**. Where a Season Pass Holder is 17 years of age or younger, the Season Pass Holder's parent or guardian is required to sign/e-sign a waiver and release of liability on their behalf;
- j. You will provide a valid email address and mobile telephone number for the express purpose of receiving communications regarding the Season Pass (including payment of any remaining balance under our split payment option) and you acknowledge that these are the only ways by which we will **communicate with you**.

SEASON PASSES - ADDITIONAL TERMS - MEDICAL/INJURY PASS REFUND EVENTS

53. The following terms and conditions in clauses 53 to 59 set out the Supplier's policy in relation to refunds of Season Pass purchases due to season ending illness or injury.
54. **(Eligibility)** You may be eligible for a full or partial refund of your Season Pass purchase under these Terms and Conditions in the event you are unable to use your Season Pass during the 2023 Australian ski season because of one of the following Medical/Injury Refund Events:
- a. **Personal Illness.** You are unable to use your Season Pass during the 2023 Australian ski season because, after you purchase your Season Pass, you suffer from an illness or disease diagnosed by an AHPRA-accredited doctor (a **Doctor**) providing medical, surgical or dental services, who is acting within the scope of their registration, and who is not you, a traveling companion, a Family Member, a person related to you or a business partner, and the illness or disease prevents you from using your Season Pass for thirty (30) or more consecutive days, and you provide medical evidence of your condition. In these Terms and Conditions, the term **Family Member** means your child, domestic Partner, brother, sister, mother, father, step-child, step-brother, step-sister, step-parents, legal guardian, foster child, ward or legal ward.
 - b. **Personal Injury.** You are unable to use your Season Pass during the 2023 Australian ski season because you suffer an accidental bodily injury that occurs after you purchase your Season Pass and that injury prevents you from using your Season Pass for thirty (30) or more consecutive days during the 2023 Australian ski season and can provide verification of this from a Doctor.
 - c. **Family Member Illness or Injury.** You are unable to use your Season Pass during the 2023 Australian ski season because a Family Member who lives in the same permanent residence as you (i) suffers from an illness or disease diagnosed after you purchase your Season Pass or (ii) suffers an accidental bodily injury after you purchase your Season Pass, and that illness or injury is either immediately life threatening or requires your continued care for that Family Member for thirty (30) or more consecutive days, and can provide verification of this from a Doctor.
 - d. **Death.** You are unable to use your Season Pass during the 2023 Australian ski season because of your own death (in which case the refund will be awarded to another Family Member with the same permanent residence) or the death of a Family Member who lives in the same permanent residence that occurs after you purchase your Season Pass.
 - e. **Minor Dependent.** You are under the age of eighteen (18) and are unable to use your Pass because Family Member who lives in the same Permanent Residence has experienced a Qualifying Personal Refund Event.

55. **(Refund amounts for Medical/Injury Refund Events)** If you are eligible for a refund of your Season Pass purchase under these Terms and Conditions because of a Medical/Injury Refund Event, the amount of your refund will vary based on how many days you have already used your Season Pass and your refund will be a percentage of your Purchase Price. **Purchase Price** is defined as the amount you paid for your Season Pass, net of any discounts, promotions, credits, and any add-ons such as the Perisher Skitube add-on. The percentage refund you receive will be based on the number of days that you had used your Season Pass as of the date when your refund request is processed, as follows:

Number of days Season Pass was used	Refund Percentage
0	100%
1	86%
2	71%
3	57%
4	43%
5	28%
6	14%
7 or more days	0%

If you are eligible for a refund of your Season Pass purchase under these Terms and Conditions because of a Medical/Injury Refund Event, and you purchased the Perisher Skitube add-on, the amount of the Perisher Skitube add-on refund will be 100% of the amount you paid for the Perisher Skitube add-on, net of any discounts, promotions and credits (the **Skitube Purchase Price**) before first use, and 0% of the Skitube Purchase Price after first use.

56. **(Deactivation of pass after refund)** After you receive a full or partial refund of your Season Pass Purchase Price, your Season Pass will be deactivated, and you will not be able to use your Season Pass for the remainder of the 2023 Australian season.

57. **(Verification requirements)** We may require you to submit documents to verify and establish the Medical/Injury Refund Event for which you are seeking a refund under these Terms and Conditions. These documents may include medical reports, correspondence, official records, videos, photos, or other documents that we deem necessary to evaluate your refund request. You cooperate with our reasonable requests to verify your Medical/Injury Refund Event, and we reserve the right to deny your request if you fail to do so. If you are unable to provide acceptable proof of a Medical/Injury Refund Event (as determined in our discretion, acting reasonably) we reserve the right to deny your refund request. If you fraudulently conceal or misrepresent a material fact concerning your refund request, you will void your entitlement to a refund under these Terms and Conditions and your entitlement to continue to use your Season Pass.

58. **(Time requirements for submitting refund request)** To be eligible for a refund of your Season Pass under these Terms and Conditions based on a Medical/Injury Refund Event, you must submit your request for a refund **within thirty (30) days** of when the Medical/Injury Refund Event arises. We will act reasonably to respond to your request in a timely manner.

59. **(Submitting a refund request)** Refund requests under these Terms and Conditions based on a Medical/Injury Refund Event must be submitted to the Supplier's email address in clause 33. [Your refund request under this policy should include your name, a description of the Medical/Injury Refund Event reasonable documentation to verify the occurrence of the event, including medical evidence issued by a Doctor. The refund request will be reviewed and validated, and the refund calculation will be determined, by us in accordance with these Terms and Conditions. Subject to eligibility, a refund will be processed, and confirmation of the refund payment sent to you by email.

SEASON LONG LOCKER RENTAL - ADDITIONAL TERMS

60. For the purpose of these Terms and Conditions, a **Season Long Locker Rental** refers to the rental of a locker at a Resort for the duration of the 2023 Australian ski season, with each locker being a **Season Long Locker**.
61. Each Season Long Locker Rental is subject to the terms and conditions below, which are to be read in conjunction with all other terms and conditions in these Terms and Conditions and any notices and signs, and you acknowledge and agree to the following terms and conditions:
- a. You must provide your own lock for the Season Long Locker;
 - b. You consent to us removing the lock on the Season Long Locker if necessary;
 - c. You must vacate the Season Long Locker by the end of the applicable season;
 - d. You acknowledge that Season Long Locker can only be accessed during applicable opening times of the locker room in the Season Long Locker is located;
 - e. You accept responsibility for all items placed in the Season Long Locker and agree we are not responsible for any loss or theft of any items in the Season Long Locker;
 - f. No stickers or signage permitted to be placed on the outside/inside of the Season Long Locker
 - g. A Season Long Locker Rental is not transferable;
 - h. You understand and acknowledge that once payment has been made, **you will not be able to cancel or obtain a credit or refund on your Season Long Locker Rental purchase or payment (or any part thereof) unless:**
 - a. we have failed to comply with the consumer guarantees under the Australian Consumer Law (see clause 15) or are otherwise required by law to provide a refund or other remedy; and / or
 - b. you incur a season ending injury (evidenced by a medical certificate) which precludes you from using the Season Long Locker for the remainder of the 2023 Australian ski season. For each remaining day of the season in which you are unable to use the locker, a pro rata credit will be provided in the form of a Snow Credit, which can be used by the participant at a future date to offset the cost of purchasing further Products & Services. The Snow Credit expires at the end of the Australian ski season immediately following the 2023 Australian ski season.
- Your Season Long Locker Rental purchase (and any payment made) cannot otherwise be cancelled or refunded, and your locker purchase (and any payment made) cannot be transferred or deferred to a future season.**
- i. You will provide a valid email address and mobile telephone number for the express purpose of receiving communications regarding the Season Long Locker Rental and you acknowledge that these are the only ways by which we will **communicate with you**.
62. The locker number for each Season Long Locker will be communicated via email prior to the start of the season.

WEBSITES – GENERAL

63. Except as set out in and subject to clause 15 and as expressly set out in the Terms and Conditions or Privacy Policy:
- a. The Website including all its pages and contents and all Products & Services provided or booked via any of the Websites are provided on an “as is” basis without any warranties or representations of any kind;
 - b. To the fullest extent permitted by law, all statutory or implied conditions or warranties of any kind relating to access to, or use of the Websites are expressly disclaimed;
 - c. We will use reasonable endeavours to process electronic payment transactions involving debit and credit cards in a timely and secure manner. However we make no warranties or representations regarding the time required to initiate or complete the processing of any transaction, and do not warrant or represent that your access to and use of the Websites including but not limited to the payment facility will be continuous, uninterrupted, error free or secure, that any defects will be corrected or that any of the Websites, its servers and any network

- connections are free of computer viruses and other harmful data, code, components or other material;
- d. Without limitation, we are not liable to you for any loss or liability of any kind caused by any delay or failure to provide information or perform operations (including but not limited to electronic payment processing) requested or do so correctly, including but not limited to as a result of or in connection with:
 - i. any delay or failure in any transmission or communication facilities;
 - ii. any delay, failure or malfunction of any of the Websites including but not limited to the payment facility;
 - iii. any failure or delay caused by third parties including but not limited to internet service providers, carriers or communications service providers, financial institutions, or payments service providers;
 - iv. delay, failure or malfunction of computer or network equipment, telephone lines, browsers, software, mobile phones or other handheld devices, or any related equipment or facilities;
 - v. computer viruses or other harmful data, code, components or other material; and
 - vi. any other event beyond the reasonable control of us;
 - e. We do not warrant or represent that:
 - i. we or they will be able to prevent any illegal, harmful or inappropriate access, use, modification or alteration of any of the Websites, including but not limited to the payment facility;
 - ii. we or they will give notice of such access, use, modification or alteration;
 - iii. any of the Websites will be continuously available or free from any delay in operation or transmission, virus, communications failure, internet access difficulties or malfunction in hardware or software;
 - iv. the Websites or any content will meet your requirements; or
 - v. the content on any of the Websites does not infringe any third-party intellectual property rights;
 - f. The Websites may provide links to third party websites and the products or services of third parties. If you use any of these links, you leave the Websites. The Suppliers have not reviewed and do not control these websites and are not responsible for their content. We are not responsible and are not liable in any way for third party content provided on or through any of the Websites. If you access, use or purchase any goods or services via these websites you do so at your own risk;
 - g. The Websites may from time-to-time display third party advertisements. Such advertisements may or may not contain hyperlinks to third party websites. We do not endorse or recommend the goods or services of such advertisers or their websites. If you purchase any goods or services from them or visit any of their websites, you do so at your own risk;
 - h. We do not warrant or represent the correctness, accuracy, timeliness, completeness, reliability, quality or otherwise of any of the Websites including but not limited to the payment facility. The use of the Websites and any services including but not limited to the payment facility is at your own risk;
 - i. If your use of any of the Websites results in the need for servicing or replacing equipment or data, we are not responsible for those costs;
 - j. The Suppliers may, at any time:
 - i. discontinue or limit access to any of the Websites or its content, for any reason whatsoever; or
 - ii. terminate or limit your access to any of the Websites if you breach these Terms and Conditions;and
 - k. All disclaimers and limitations of liability by the Suppliers will survive termination.

WEBSITES – ELECTRONIC PAYMENT

64. You agree to use and access the electronic payment facility on the Websites strictly in accordance with the requirements and procedures set out on the relevant Website from time to time and any applicable laws. You are responsible for entering the correct account/card number and other details required by the electronic payment facility on the relevant Website, and for maintaining the security of your computer software and hardware. We may amend any such requirements or procedures at any time.

65. You are responsible for presenting the credit card used to make the purchase of the Products & Services for inspection to us at the time you redeem your purchase. Where the credit card used to make the purchase is not presented at the time of redemption of the purchase, we may cancel the purchase at our complete and absolute discretion. As soon as you become aware that the credit card used to make the purchase may not be able to be presented at the time of redemption of the purchase (for instance because it has been lost, stolen, replaced or has expired), you must promptly contact us to make alternative arrangements. You agree that you will make only legitimate bookings in good faith for use by you and your invited guests only, and not for other purposes, including without limitation, reselling, impermissibly assigning or posting on third party websites, or making speculative, false or fraudulent bookings, or any booking in anticipation of demand.

WEBSITES – INTELLECTUAL PROPERTY

66. Copyright in the content and material on all the Websites is owned by us or our licensors. You may download, store, display on your computer, view, listen to, play and print materials that we publish or broadcast on the Websites or make available for free download through the Websites subject to the following:
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68. The Websites may contain our trademarks or logos, or the trademarks or logos other companies or organisations, and these are proprietary to the owner(s) of such marks. No use of the trademarks or logos without our prior written permission is permitted.

PRIVACY

69. The Vail Resorts Global Privacy and Cookie Policy (**Privacy Policy**) sets out our policies on the collection and management of personal information. For information regarding the kind of personal information collected, how information is collected, the purposes for which the information is collected, and how you can access, delete or correct personal information, please read our Privacy Policy.
70. Our Privacy Policy is displayed on the Websites. You can also get a copy of our relevant Privacy Policy, or contact us in relation to our Privacy Policy, as follows:
- a. write to: Privacy Officer, Perisher Blue Pty Limited, PO Box 42, Perisher Valley, NSW 2624; or
 - b. send an e-mail to privacy@perisher.com.au.

FORCE MAJEURE

71. To the extent permitted by law, we will not be liable to you for any loss or damage (whether direct or consequential), nor be in default under these Terms and Conditions, for failure to observe or perform any of our obligations under these Terms and Conditions for any reason or cause which could not, with reasonable diligence, be controlled or prevented. These

reasons or causes include any act of God, strike, lockout or other industrial disturbance or labour difficulty, act of public enemy, war (whether declared or not), blockade, revolution, riot, insurrection, civil commotion, pandemic (including without limitation COVID-19), epidemic, outbreaks of infectious disease or any other public health crisis or any governmental measures imposed to address such public health crisis, including quarantine or any other social restrictions, lightning, storm, flood, fire, earthquake or any other natural disaster, explosion, any action, inaction, demand, order restraint, restriction, change in law, requirement, prevention, frustration or hindrance by or of any person, government or competent authority, embargoes, unavailability of any essential equipment, chemicals or other materials, unavoidable accident, lack of transportation and any other cause whether specifically referred to above or otherwise which is not within our reasonable control.

72. You agree that the *Frustrated Contracts Act 1978* does not apply to these Terms and Conditions. Therefore, neither party may make any claim relying on the *Frustrated Contracts Act 1978* in the event that this contract is deemed to be frustrated.

TRUSTEE LIMITATION OF LIABILITY

73. Unless otherwise specifically contemplated in these Terms and Conditions, Perisher Blue Pty Limited only enters into these Terms and Conditions in its capacity as trustee of the Snow Trust and in no other capacity. A liability arising under or in connection with these Terms and Conditions can be enforced against Perisher Blue Pty Limited only to the extent to which it is actually indemnified for the liability out of the assets of the Snow Trust. The limitation of Perisher Blue Pty Limited's liability applies and extends to all liabilities and obligations of Perisher Blue Pty Limited in any way connected with any representations, warranties, conduct, omission, agreement, or transaction related to these Terms and Conditions.
74. Unless otherwise specifically contemplated in these Terms and Conditions, you may not sue Perisher Blue Pty Limited other than as trustee in respect of the Snow Trust, including seeking the appointment to Perisher Blue Pty Limited of a receiver (except in relation to property of the relevant trust), a liquidator, administrator or any similar person or proving in any liquidation, administration or arrangement of or affecting Perisher Blue Pty Limited (except in relation to the relevant trust).
75. The provisions of clauses 73 and 74 do not apply to any obligation or liability of Perisher Blue Pty Limited to the extent that it is not satisfied because under the constitution or trust deed (as the case may be) of the relevant trust, or by operation of law, there is a reduction in the extent, or elimination of, Perisher Blue Pty Limited's right of indemnification out of the assets of the Snow Trust, or such right does not exist at all, as a result of:
- a. having incurred the obligation or liability as a result of fraud, gross negligence, willful default or breach of trust by Perisher Blue Pty Limited; or
 - b. the failure of Perisher Blue Pty Limited to exercise any right of indemnity it has under the constitution or trust deed (as the case may be) of the relevant trust in respect of that obligation or liability.

GENERAL

76. **(Entire Agreement)** These Terms and Conditions (and where applicable, your signed waiver and release of liability) comprise the entire agreement between you and us in relation to its subject matter and supersede any prior agreement or understanding on anything connected with its subject matter.
77. **(Dispute Resolution)** If you have any issue arising out of these Terms and Conditions or in relation to purchasing or use of the Products & Services, you agree to notify us in writing and use reasonable endeavours to resolve the matter through discussions or correspondence with us before commencing any court or tribunal proceedings.

78. **(Severability)** In the event that any term or condition contained in these Terms and Conditions is unenforceable or void by operation of law or as being against public policy or for any other reason, then such term or condition shall be deemed to be severed from this contract or amended accordingly only to the extent necessary to allow all remaining terms and conditions to survive and continue as binding.

79. **(Governing law)** These Terms and Conditions are governed by:

- a. in respect of Perisher, the laws of New South Wales, Australia; and
- b. in respect of Mount Hotham and Falls Creek, the laws of Victoria, Australia.

In respect of Perisher, you irrevocably submit to the exclusive jurisdiction of the courts of New South Wales, Australia. In respect of Mount Hotham and Falls Creek, you irrevocably submit to the exclusive jurisdiction of the courts of Victoria, Australia.

80. **(Questions and complaints)** If you have any questions about your Booking or have a complaint, please inform one of our resort staff at the time so that they can attempt to resolve your question or complaint, or contact:

- a. for Products & Services supplied by Perisher, info@perisher.com.au or the Perisher Ticket Office; or
- b. for Products & Services supplied by Mount Hotham, tickets@hotham.com.au or the Mount Hotham Ticket Office; or
- c. for Products & Services supplied by Falls Creek, info@falls creek.net or the Falls Creek Ticket Office.

If you believe that your questions or complaint has not been resolved through these means, then please put this in writing to us by sending an email to the applicable resort above.

ATTACHMENT A: ALPINE RESPONSIBILITY CODE

YOUR ALPINE RESPONSIBILITY CODE

There are inherent risks in all snow recreational activities. Common sense, staying in control and personal awareness can reduce these risks. Risks include rapid changes in weather, visibility and surface conditions, as well as natural and artificial hazards such as rocks, trees, stumps, vehicles, lift towers, snow fences and snowmaking equipment. Observe the code and ski and ride with courtesy to others.

1. Stay in control and avoid other people and hazards.
2. Use appropriate protective equipment, especially helmets, to minimise the risk of injury.
3. You must have the ability to use each lift safely. If in doubt ask the lift attendant.
4. Obey all signs and warnings, and keep off closed trails and areas.
5. It is your responsibility to avoid and give way to people below and beside you.
6. Do not stop where you are not visible from above or where you obstruct a trail.
7. Before starting downhill, or merging into a trail, look uphill and give way to others.
8. Use care to prevent runaway snowboards.
9. If you are involved in or see an accident, alert and identify yourself to Resort Staff.
10. Be aware that it is dangerous to ski, board or ride lifts if your ability is impaired by drugs or alcohol.

**KNOW THE CODE.
IT'S YOUR RESPONSIBILITY.**

**Failure to observe the code may result in cancellation
of your ticket or pass by Resort Staff.**

