

**Freshies Built, LLC Participant Release of Liability, Waiver of Claims,
Assumption of Risks and Indemnity Agreement**

In consideration of the services provided by Freshies Built, LLC, a Montana limited liability company (together with its respective agents, owners, guides, contractors, members, managers, officers, employees, and all other persons or entities acting in any capacity on its behalf, the “Company”), I hereby acknowledge and agree to the following:

1. **Inherent Risks**. The following describes some, but not all, of the risks and dangers that I might encounter while on Company property, while participating in activities offered or facilitated by the Company, or while using Company equipment (collectively or individually the “Activities”). The Activities entail known, unknown, and unanticipated risks that could result in physical or emotional injury, death, or damage to myself, to property, or to third parties. I understand that the enjoyment and excitement of the Activities is derived in part from inherent risks created by participating in activities outside the typical safety of life at home or in my normal day to day activities, and these inherent risks contribute to my enjoyment and excitement and are an integral reason for my participation in the Activities. I understand that such risks simply cannot be eliminated without jeopardizing the essential qualities of this type of experience.

Transportation: The Company is not a common carrier, but rather is in the business of providing outdoor recreation activities, including snowmobile rentals and snowmobile guided tours. Snowmobile use may involve errors in judgment by individuals operating the snowmobile or guiding tours. The snowmobile may malfunction or break down, and may violently accelerate, turn, overturn, or lose control. Use of a snowmobile could result in physical or emotional injury, death, or damage to myself, to property, or to third parties. I understand that the Activities, including but not limited to snowmobiling may require me to use equipment that I might be unfamiliar with and may require me to interact with other participants with whom I am also unfamiliar; both of these things can cause me discomfort and stress and have inherent risks.

Weather: While participating in the Activities, I may experience environmental and weather conditions including but not limited to low visibility; wind; rain, hail, snow, or other precipitation; extreme temperature variations; thunder; lightning; fires; etc. Exposure to the natural elements can be uncomfortable and/or harmful and I am aware that this exposure could cause discomfort, physical or emotional injury, death, or damage to myself, to property, or to third parties, some or all of which may diminish my or other participants’ ability to react or respond. Delays or inconvenience because of inclement weather can occur.

Wilderness Conditions: I understand that the areas in which I might snowmobile may hide dangerous obstacles such as tree wells, tree stumps, creeks, rocks and boulders, forest dead fall, irregular footing, wild or domestic animals, bodies of water, avalanches, etc. I may encounter dangerous wildlife and insects and may encounter firearms or substances necessary to the control of these animals or insects. These conditions could cause physical or emotional injury, death, or damage to myself, to property, or to third parties.

I understand that there are numerous other conditions I may encounter, including some that may seem open and obvious, but that also have inherent risks associated with them. I understand that the Company is NOT responsible for any action, inaction, outcome, or matter that is not directly and wholly within the Company’s control – including but not limited to things such as weather, acts of god, actions of third-parties, and acts of war. Each of these issues, conditions, and risks could result in physical or emotional injury, death, or damage to myself, to property, or to third parties.

Furthermore, the Company’s jobs and tasks are difficult to perform. The Company seeks safety, but it is not infallible. The Company might be unaware of a participant’s fitness or abilities. The Company might misjudge the weather, the

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elements, or the terrain. The Company may give inadequate warnings or instructions or I as the participant may fail to understand the warning or instructions. Further, I may encounter: the negligence or misbehaviors of other individuals who may be present, participants giving or following inappropriate advice, my own or others' failure to follow the rules of the Company and/or my own or others' negligence or inexperience, some or all of which may diminish my or the other participants' ability to react or respond. I understand that I have the responsibility to inspect any and all facilities or equipment to be used and to immediately advise the Company of any questions I have regarding the operation of the equipment, or anything which I consider to be damaged, defective, inappropriate, or unsafe, and I may refuse to participate.

2. **Express Assumption of Risk.** As part of the lawful consideration for my being allowed to participate in the Activities, I expressly accept and assume the risks existing in or associated with the Activities. My participation in the Activities is purely voluntary, and I elect to participate in spite of the risks.

3. **Release and Waiver.** I hereby voluntarily release and forever discharge the Company, to the maximum extent allowed by law, including to the maximum extent allowed under Mont. Code Ann. Section 28-2-702, from any and all claims, demands, or causes of action, which are in any way related to my participation in any of the Activities.

4. **Indemnity.** I agree to protect, indemnify, defend, and fully hold harmless the Company, to the maximum extent allowed by law from and against any and all costs, expenses, damages, losses, obligations, lawsuits, claims, or liabilities related to or arising out of my participation in the Activities, including but not limited to damages to my person or property, including death, and damages that I may cause to another person or another person's property, including death. The foregoing shall include but not be limited to all costs and expenses of defending any claim at any time arising and any judgments, awards, penalties, compromises, settlements, court costs, and attorneys' fees accruing to or incurred by the Company.

5. **Personal Skill & Condition.** I certify that I have sufficient skill and fitness to participate in the Activities. I further certify that I have no medical, mental, or physical conditions which could interfere with my safety or ability to participate in the Activities, or else I am willing to assume and bear all risks, including but not limited to costs, that may be created, directly or indirectly, by any such condition. I understand that the Company reserves the right, but does not have an obligation, to deny me or any other person participation before or during the Activities if it finds that person to be mentally or physically impaired or unprepared.

6. **Medical Authority and Insurance.** While the Company is under no obligation to administer emergency first aid or CPR or to remove me from activities or to extricate me from the field or from any location for any health related reason, by signing this agreement, I am giving the Company permission to: administer emergency first aid or CPR, secure emergency transport or medical care, and/or disclose any medical information it may have about me to any health care provider which may become involved in my care, treatment, or removal. By signing this agreement, and without limiting the other waivers set forth in this agreement, I am waiving any right to bring any type of action or claim against the Company for any of the foregoing, including but not limited to its administration of emergency first aid or CPR or for securing emergency transport or medical care and/or for the disclosure of personal medical information it may have about me to any health related person who becomes involved in my care or removal from the Activities or the field. I further certify that I have adequate insurance to cover any injury, damage, or emergency transportation costs I may cause or suffer while participating in the Activities, or else agree to bear the costs of such injury, damage, or emergency transportation costs myself.

7. **Assignment of Images and Recordings.** The Company reserves the right to photograph, video, and audio record any or all participants in the Activities. I hereby agree that the Company may use such photos or recordings for

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promotional and/or commercial purposes without any payment to me. I hereby assign all right, title, and interest I may have in or to any and all such photos or recordings in which my name or likeness might be used by the Company.

8. **Release as Contract and Personal Capacity.** The terms of this agreement are contractual in nature and supported by Montana law. I am signing it of my own free will. I am not under the influence of drugs or alcohol at the time of my signing of this agreement and there are no other impediments or reasons why I would lack the capacity to sign this agreement.

9. **Forum Selection, Severability, Breach of Contract/Warranty Waiver.** In the event I file a lawsuit against the Company I agree to do so solely in the State of Montana, and I further agree that Montana substantive law shall apply in that action without regard to Montana's conflict of law rules. I agree that if any portion of this agreement is found to be void or unenforceable, the remaining portion shall remain in full force and effect; this agreement is intended to be interpreted as broadly as possible. The title and paragraph headings of this agreement are intended for guidance only and will not be relied upon in the construction or interpretation of this agreement, nor will they restrict or alter the scope of the particular paragraphs to which they refer. Any reference to "including" shall mean such list or reference is non-exhaustive. A copy of this agreement can be used as if it was the original. I understand that this agreement constitutes the entire agreement between myself and the Company and that it cannot be modified or changed in any way by representations or statements of any nature (be they verbal, advertising, etc.) outside of this agreement unless agreed to in writing by the Company; in other words, I am also waiving any claims I might have for breach of contract or warranty for statements or representations made outside of this agreement. To the maximum extent allowed by law, the Company discharges and makes no representation or warranty, expressed or implied.

10. **Limitations on Damages.** Without limiting any other provision of this agreement, I agree that the Company shall be not liable for any special, punitive, exemplary, indirect, consequential, or incidental damages, including but not limited to damages for lost profits or revenue, even if the Company was aware of the risk of such losses. Further, without limiting any of the foregoing, the Company's total liability shall never exceed the amount I have actually paid directly to the Company as directly relating to the Activities. I also agree that the Company shall not be responsible in any way for any action, inaction, outcome, or matter that is not directly and wholly within the Company's control – including but not limited to things such as weather, acts of god, actions of third-parties, and acts of war.

11. **Binding Agreement and Survival.** This agreement shall inure to the benefit of, and shall be binding upon, the respective successors, predecessors, officers, directors, members, trustees, heirs, partners, employees, contractors, agents, and assigns of the parties. This agreement, and the terms hereof, shall survive for as long as legally possible.

12. **Attorney Fees.** In the event of litigation arising out of this agreement, the prevailing party shall be entitled to receive reasonable attorney's fees, together with costs expended, from the other party.

[Signature Page Follows]

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I understand that by signing this agreement, I am waiving my legal right, to the maximum extent allowed by law, including to the maximum extent allowed under Mont. Code Ann. Section 28-2-702, to hold the Company legally responsible for any injuries or damages resulting from my participation in the Activities. I hereby discharge the Company as set forth in this agreement on behalf of myself, my children, my successors, predecessors, officers, directors, members, trustees, heirs, partners, employees, contractors, agents, and assigns.

By signing this agreement, I acknowledge that I AM ULTIMATELY RESPONSIBLE for my own safety in the course of participating in the Activities.

If the participant listed below is a minor child, the undersigned represents that the undersigned is over 21 years old and signing on behalf of such minor child, and that the undersigned is the minor child's parent, guardian, or otherwise has authority to bind, contract for, and legally act on behalf of such minor child, including to enter this agreement on such minor's behalf. The undersigned acknowledges and agrees that the Company relies to its detriment on this representation and would not allow the minor child to participate in the Activities without this representation. In consideration of the minor child being permitted by the Company to participate in the Activities, the undersigned hereby consents to the minor child's participation in the Activities, acknowledges and agrees that each of the statements contained in this agreement are made on behalf of the minor child, and agree that both the undersigned and the minor child are bound by this agreement.

The signature below indicates irrevocable acceptance of every term of this agreement, and an acknowledgement that the signer is not signing under protest, is not conditionally agreeing, is absolutely agreeing, is agreeing without any rights reserved. If I have inserted any conditional or restricted language in this agreement or otherwise, I agree that any such additional language or restrictions shall be void and shall not be binding on the Company or be a part of the agreement between the parties.

I HAVE HAD SUFFICIENT OPPORTUNITY TO READ THIS ENTIRE AGREEMENT, WHICH CONSISTS OF FOUR (4) PAGES, AND HAVE HAD AN ADEQUATE OPPORTUNITY TO (a) ASK QUESTIONS AND (b) TO CONSULT WITH AN ATTORNEY. I CLEARLY UNDERSTAND AND VOLUNTARILY SIGN THIS AGREEMENT, AGREE THAT ITS PROVISIONS ARE REASONABLE, AND AGREE TO BE BOUND BY ITS TERMS.

Participant/Authorized Representative for a Minor Signature: _____

Date: _____

Participant Printed Name: _____ Age of Participant on date of agreement: _____

Signer name (if participant is a minor): _____ Relationship to minor: _____

Address: _____

City: _____ State: _____ Postal Code: _____ Country: _____

E-mail address: _____ Phone #: (____) _____