



## Terms and Conditions – Mckayos 2019

These terms and conditions of entry (“Terms”) are to ensure the Mckayos MTB Race on Sat Oct 5<sup>th</sup> (The Event) runs properly. By registering to this event and clicking “I accept the terms and conditions for Mckayos” button you accept and agree to be bound by these entry terms.

### WARNING UNDER THE AUSTRALIAN CONSUMER LAW AND FAIR TRADING ACT 2012 (“ACL”)

Under the ACL, several statutory guarantees apply to the supply of certain goods and services. These guarantees mean that Falls Creek Resort Management (FCRM) is required to ensure that the recreational services it supplies to You:-

\*are rendered with due care and skill; and

\*are reasonably fit for any purpose which You, either expressly or by implication, make known to FCRM; and

\*might reasonably be expected to achieve any result you have made known to FCRM.

Under section 22N of the ACL, FCRM is entitled to ask You to agree that these statutory guarantees do not apply to You. By entering or participating in the Event, You agree that your rights to sue FCRM (under the ACL) if You are killed or injured because the services provided were not in accordance with these guarantees, are excluded, restricted or modified in the way set out in the Terms and Conditions. NOTE: The change to Your rights, as set out in the Terms and Conditions, does not apply if Your death or injury is due to gross negligence on FCRM’s part. Gross negligence is defined in the Australian Consumer Law and Fair Trading Regulations 2012.

## TERMS & CONDITIONS

By clicking the “I accept the terms and conditions for Mckayos” button You warrant and represent to FCRM that:

\*You are eligible to apply for participation in the Event;

\*You have read and understood these terms and conditions and all other relevant material, including any Event Rules, Event requirements, Event Waiver and the Warning and Note required under the ACL; and

\*You acknowledge and agree that if You are accepted to participate in the Event, You must comply with these terms and conditions and all other relevant rules and policies including the Event Rules and Event or Series Policies.

NOTE: Competitors under the age of 18 years can only participate where a parent or guardian accepts the Consent, agrees to any restrictions or requirements notified by FCRM in writing, and acknowledges participation by response to Our correspondence.



## 1 Definitions

- 1.1 “Claims” means and includes any action, suit, proceeding, claim, demand, damage, penalty, cost or expense however arising including but not limited to negligence.
- 1.2 “Consent” means the form provided in the online entry system for parent or guardian acceptance and acknowledgement of the Terms and Conditions.
- 1.3 “Eligibility Requirements” means the requirements that must be satisfied for You to enter and participate in the Event, details of which are outlined in this document
- 1.4 “Event” means Mckayos MTB event
- 1.5 “Event Day” means the day or days that the Event competition is held on.
- 1.6 “FCRM” Means Falls Creek Resort Management ( ABN -21 789 770 569)
- 1.7 “Terms and Conditions” means these Terms and Conditions (including the Warning and Note) and where the context allows, any policies and rules applicable to the Event.
- 1.8 “You” means the person named on the Event application being the applicant and where accepted by FCRM becoming a competitor in the Event. Where You are under 18 years of age, where relevant, You also refers to the consenting parent or guardian.
- 1.9 “Warning and Note” means the warning and note provided in accordance with the Australian Consumer Law allowing recreational service providers to limit their liability to You.

## 2 Eligibility to participate

- 2.1 To be eligible to participate in the Event You must be at least 15 years of age, you must hold a valid MTBA race licence and you must have all the minimum equipment as outlined in Section 4 “your obligations”
- 2.2 If You are under 18 years of age on the date of the Event, a parent or guardian must accept these terms and conditions and acknowledge the Warning and Note required by the Australian Consumer Law. Where no consent is provided, You warrant that You are 18 years of age or older on the date of the Event.
- 2.3 You must be a minimum age of 15 (on the day of the event) in order to participate
- 2.4 You must be medically and physically fit and able to participate in the Event.
- 2.5 You must not be a danger to Yourself or to the health and safety of others.
- 2.6 You must be eligible for the category in which you are entered. Categories will be as outlined below. No Electronic or pedal assist bikes are permitted in any other category apart from the E-Bike Category.



Junior 15 - 16 (Female / Male) – You must be aged 16 or under and a minimum of 15 on the day of the event. No exceptions will be made concerning minimum age

Junior 17 - 19 (Female / Male) – You must be aged 17,18 or 19 on the day of the event

Elite Male / Female – Must be a minimum age of 19 years or older on the day of the event

Open Under 30 Male / Female – Must be 30 or Under on the day of the event

Open Under 40 – Male / Female – Must be 40 or under on the day of the event

Masters Under 50 Male / Female – Must be 50 or under on the day of the event

Super Masters 50 + Male / Female – Must be 51 and over on the day of the event

E-bike Male / Female – Open category, no age restrictions, open to any participant on a road legal pedal assist E mountain bike

### **3 Refusal of applications**

3.1 FCRM reserves the right to refuse any application for entry into the Event for any reason, including where:

3.2 an applicant does not meet the Eligibility Requirements;

3.3 the field cap has been reached, regardless of the circumstances.

### **4 Your obligations**

4.1 If Your application to participate in the Event is accepted you will be permitted to participate in the Event on the condition that you comply with the Terms and Conditions and any reasonable direction issued by the Event organisers or their representatives.

4.2 You must immediately notify FCRM in writing of any change to your fitness and ability to participate in the Event. Where You do not provide any written notice to FCRM, FCRM will rely upon this as evidence of Your fitness and ability to participate.

4.3 To be eligible for on course support, medical or mechanical support, You must be in possession of an official McKayos 2019 Number board.

4.4 In applying to participate in this Event You consent to receiving any medical treatment that the Event organisers or their authorised representatives (including emergency services providers) consider reasonably necessary or desirable during or shortly after the Event. You must reimburse the Event organiser and FCRM for any costs or expenses incurred in providing You with medical treatment.

4.5 You must pay all fees due at the time of submitting Your application. No applications will be accepted or considered unless and until all fees have been received by FCRM.



4.6 All riders for Mckayos must wear a full faced helmet meeting AS2063 or equivalent, during all stages of the event. Helmets with a detachable mouthpiece are permitted providing they meet AS2063 Standard or equivalent and that the detachable mouth piece is fitted.

4.7 All riders must wear a jersey or shirt covering the elbows as a minimum, ¾ length jerseys are acceptable

4.8 Knees must be covered by full length trousers or self-fastening knee guards or knee / shin guards expressly designed for off road riding.

4.9 All riders competing in the Junior 15 - 16 and Junior 17 - 19 Category are required to wear:

- Knee Pads

- Elbow Pads

- Full finger / Full length Gloves

- Full length jersey

4.10 By accepting these Terms you also accept that FCRM STRONGLY RECOMMENDS THE USE OF Neck Braces, back and shoulder protection, elbow protection, knee protection and goggles / eye protection.

4.11 All participants must use a bicycle in a fully functional and safe working order suitable for the extreme nature of this event. Minimum standards include, a working front and rear brake, tyres in good condition (no excessive wear or obvious damage to the carcass of the tyre) and bar end plugs. All riders are required to carry a fully charged mobile phone and suitable clothing for the conditions. Use common sense, it's the mountains.

4.12 All participants agree and understand that event requires significant physical and mental skill and endurance. Participants who are, in the opinion of the event organiser or their representative, are unable to continue the race, are proceeding at a significantly reduced pace compared to the rest of the field or evidently struggling with the demanding nature of this event will be asked to retire. The event organisers decision in this matter is final and any rider continuing on course despite being asked to retire will be officially unsupported and ineligible for any of the support or facilities as part of the event. No refunds will be offered to riders who are asked to retire.

## **5 Risks, liability and indemnity**

5.1 You acknowledge that participation in the Event can be inherently dangerous and that You may be exposed to certain risks during the Event including, but not limited to, overexertion, equipment failure, dehydration, serious accidents, Collisions with other riders, collisions with solid objects and risks associated with the course and adverse weather conditions. These risks can and often eventuate and they may result in You being personally injured or killed or Your property being damaged. By entering into or participating in the Event You agree that:

5.2 You have read and understood the risks associated with participating in the Event and this warning, and accept and assume the inherent risks in participating in the Event.



5.3 You are fully responsible for the security of Your personal possessions at the Event including Your bike and other valuable items and including items left in the start area, finish area and transport on the event. You agree that FCRM is not responsible or liable for the repair or replacement of any personal possessions whether lost, damaged, stolen or otherwise.

5.4 You acknowledge that where You are a consumer of recreational services, as defined by any relevant law, certain terms and rights usually implied into a contract for the supply of goods or services may be excluded. You acknowledge that these implied terms and rights and any liability of FCRM flowing from them, are expressly excluded to the extent permitted by law. To the extent of any liability arising, the liability of FCRM will, at its discretion, be limited in the case of goods, to the replacement, repair or payment of the cost of replacing the goods and in the case of services, the entry fee relating to the Event.

5.5 You are solely responsible for following the directions and instructions of all course marshalls, signage and race officials.

## **6 Release and indemnity**

In consideration of FCRM accepting Your application for entry to the Event, You to the extent permitted by law:

6.1 release FCRM from all Claims that You have or may have had but for this release arising from or in connection with Your participation in the Event; and

6.2 indemnify FCRM and will keep FCRM indemnified in respect of any Claim by any person including another participant in the Event arising as a result of or in connection with Your participation in the Event or arising as a result of You transferring Your entry in the Event to another person or arising from You permitting another person to participate in the Event in Your stead.

## **7 Insurance**

You acknowledge and agree that you must be in possession of a race day licence or Annual licence from Mountain Bike Australia (MTBA) valid for the day of the event. You understand no other personal insurance will be provided to participants and that no participant will be permitted to enter McKayos unless in possession of a valid MTBA race licence. No alternative insurance providers will be permitted in place of an MTBA licence.

## **8 Fees**

8.1 You must pay all the fees due, including any amounts payable for additional services such as MTBA race insurance and any other extras you nominated at the time of entry into the Event.

8.2 To be eligible for the early bird discount all fees must be paid before 11:59 (AEDT) on **Friday 2<sup>nd</sup> August**

8.3 All junior entries must be aged 19 or under on the day of the event.

## **9 Refunds, Transfers and Cancellations**



9.1 If a participant “you” voluntarily withdraws from McKayos and notifies FCRM before 08:00am on Friday 20<sup>th</sup> September (AEDT) the participant will be eligible for a refund. The request for a refund needs sent in writing to FCRM at [events@falls creek.com.au](mailto:events@falls creek.com.au)

9.2 All refunds will be subject to a \$20 administration fee.

9.3 No refund requests made after 08:00am (AEDT) on Friday 20<sup>th</sup> September will be given regardless of the circumstances.

9.4 A rider may transfer his / her entry to another rider. All transfers must be requested in writing to [events@falls creek.com.au](mailto:events@falls creek.com.au) by 08:00am on Tuesday 1<sup>st</sup> October (AEDT) and will attract a \$20 administration fee.

9.5 Any transfers after 08:00am Tuesday 1<sup>st</sup> October will solely be at the discretion of FCRM.

9.6 You must not offer Your (or any other persons) Entry for sale through any medium, including auctions (on eBay or any other auctioning or similar means). All individuals involved in such conduct will be disqualified from the Event.

9.7 You acknowledge and agree that due to the nature of this event and the effect on the event of climatic conditions, that Your entry and participation in the Event may be affected by matters outside of the control of FCRM. This includes but is not limited to the, weather and associated conditions. You accept that in such circumstances FCRM has the right to alter the format of, shorten, or cancel the Event in the interest of competitor safety. FCRM will use all reasonable efforts to conduct the Event in the planned format if safe to do so.

9.8 Should weather conditions or any other outside factors force any change or render the event unsafe or unable to be held on the proposed date:

- FCRM Will endeavour to reschedule the event to another date with all entries carrying over to the new date.

- If you are unable to attend the newly proposed date FCRM will refund 50% of the entry fee for any participants who are unable to attend the rescheduled date.

- If the Event cannot be rescheduled for any reason FCRM will refund all participants their entry fee or offer a credit for the following years event.

**PLEASE NOTE:** In all circumstances it should be assumed that the event is going ahead UNLESS otherwise stated.

- Notice of any postponement, cancellation or change will be made on the event facebook page, event website and front office of FCRM.

## **10 Privacy**

11.1 FCRM has a privacy policy available at:-



<https://www.fallscreen.com.au/termsconditions/>

The information that You provide with this application is necessary for the conduct of the Event. You acknowledge and agree that the information provided will be used by FCRM to facilitate the conduct of the Event.

102 You understand that You will be able to access Your information through FCRM

101.3 If the information is not provided Your application may be rejected.

10.4 You warrant that the information You provide in Your application is correct. If You provide incorrect or misleading information, FCRM may disqualify You from the Event and You may be ineligible to participate in future FCRM events.

10.5 You consent to the FCRM using Your name, image, likeness and also Your performance in the Event, at any time, to promote the Event or any future similar events by any form of media.

10.6 You consent to receiving electronic newsletter material from the Event organisers or their authorised representatives prior to and after the Event. Unless You have nominated otherwise, You acknowledge and agree that Your information may also be used for marketing purposes by a third party or the Event sponsor.

## **11 Governing laws**

Your participation in the Event or Series is governed by the laws of the state of Victoria, Australia or as otherwise agreed by the parties.

## **12 Amendment**

Terms and Conditions can only be amended with the prior written consent of FCRM.

## **13 Severance**

If any term or condition (in whole or in part) is illegal or unenforceable, that term or condition (or part) is to be severed from these Terms and Conditions to the extent that it is illegal or unenforceable. Any remaining part of a term or condition remains valid continues to operate to its full force and effect.

## **14 Race Rules and Behaviour**

14.1 Places will be awarded for the fastest time down the marked course in each category .

14.2 Timing will solely be based on the Event Organisers timing system. No other times or measurements will be allowed or discussed.

14.3 Riders will be placed fastest time first in their respective category, awards will be given for 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> for each category (both male and female)



14.4 Penalties including time penalties and disqualification may be imposed by the Race organiser for any rider disregarding the rules or the instructions of any race official, marshal or volunteer.

14.6 Riders must ride within the marked course at all times. Penalties or Disqualification will apply for any rider riding outside of the marked course.

14.7 Any rider who accidentally leaves the course may reenter the course either at the same point that they left it or further along provided no benefit or advantage is achieved by this.

14.8 Riders must at all times treat other participants, officials and volunteers with respect.. Un-sportsman like conduct and/or conduct that may bring FCRM / MTBA, and/or other agencies/persons associated with the event into disrepute may result in disqualification. It's supposed to be fun!

14.9 Any rider caught littering or disrespecting the mountain environment will be disqualified.

14.10 Riders must render assistance to any other participant who requires it (Ie First aid). People first racing second.

14.11 No E-bikes in any other category than the E-Bike category.

14.12 Race plates must be displayed at all times.

14.13 Riders must be full control of their bike at all times and not under the influence of alcohol or Drugs.

14.14 Start line order is self seeding, first in best dressed. If you're only racing for fun leave the front line for the race heads.

14.15 Riders must make every effort to avoid contact with other participants. Riders must always attempt to pass safely and call out to other riders when doing so.