

## BULLER HOLIDAYS TERMS & CONDITIONS OF SALE

### Online and Offline Sales

**NOTICE TO GUEST:** PLEASE READ THIS AGREEMENT CAREFULLY.

BY PURCHASING PRODUCTS FROM THIS BOOKING SERVICE, YOU ACKNOWLEDGE THAT YOU HAVE READ THIS AGREEMENT, UNDERSTAND IT AND AGREE TO BE BOUND BY ITS TERMS AND CONDITIONS. IF YOU ARE MAKING THE PURCHASE ON BEHALF OF ANOTHER PERSON, YOU AGREE THAT YOU ARE MAKING THE PURCHASE AS THEIR AGENT.

IF YOU DO NOT AGREE TO ALL OF THE TERMS OF THIS AGREEMENT, DO NOT CONTINUE WITH YOUR PURCHASE.

### DISCLAIMER

The material and information by the Booking Service is provided in good faith by Buller Holidays. While Buller Holidays takes all reasonable care to ensure that the content is correct, it cannot guarantee that all the material is always true, accurate and free from errors. Accordingly, you must use this Booking Service at your own risk and accept that the material and information provided by the Booking Service and on the Website may contain errors and omissions and that it is not intended as advice and must not be relied upon as such.

### Introduction

Buller Holidays promotes tourism in the Mansfield Mt Buller Region and provides a service for the Guest to book Travel Products.

The Guest authorises Buller Holidays to arrange to supply the Guest with Travel Product via the Booking Service on the Conditions of this Agreement, with Travel Product to be provided by the Suppliers.

### 1. Definitions

In these conditions unless where the context otherwise permits:

- 1.1. **Act** means the Competition and Consumer Act 2010 (Cth) and the Australian Consumer Law (Victoria).
- 1.2. **Booking Service** means booking of Travel Products via Buller Holidays either Online or Offline, being through the Website or the Call Centre, or a combination of both.
- 1.3. **Buller Holidays means** Buller Holidays Pty Ltd ACN 165 086 126 and where the context permits includes its employees, agents, contractors, Related Entities and permitted assigns.

- 1.4. **Business Day** means a day that is not a Saturday, Sunday, public holiday or bank holiday in Melbourne.
- 1.5. **Call Centre** means the service provided by Buller Holidays for the Guest to make offline bookings.
- 1.6. **Claim** means any claim, demand, action or proceeding in relation to the performance or non-performance of the services, products or any other obligation under these conditions, whether arising under the law of contract, equity, tort (including negligence), strict liability, breach of statutory provision or otherwise.
- 1.7. **Conditions** means these conditions of purchase, supply and use including the general conditions and Privacy Policy
- 1.8. **Guest** or you means you being a member of the public who uses the Booking Service including using the Booking Service to place a booking for the Supplier's Travel Product through Buller Holidays.
- 1.9. **House Rules** means the terms and conditions on which a Supplier supplies the Travel Product to the Guest and is in addition to these Conditions.
- 1.10. **No Show** is a reservation that is not cancelled prior to the first day that the booking was to be used and where the Guest does not show up to claim the reservation
- 1.11. **Offline Booking** is a reservation processed through either the Website which requires manual intervention by Buller Holidays or through the Call Centre.
- 1.12. **Online Booking** is a reservation processed through the Website and not requiring manual intervention by Buller Holidays.
- 1.13. **Prescribed Terms** means any terms, conditions and warranties which the law (including the Act) expressly provides may not in respect of these conditions be excluded, restricted or modified, or may be excluded, restricted or modified only to a limited extent.
- 1.14. **Price** means the full price applicable to a particular Travel Product or Travel Products at a Purchase Date.
- 1.15. **Purchase Price** means the actual price paid for the Travel Product.
- 1.16. **Purchase Date** means the date that the purchaser makes payment for the Travel Product.
- 1.17. **Related Entities** has the meaning given to it in the Corporations Act 2001 (Cth).
- 1.18. **Snow Season** has the meaning given to it under the *Alpine Resorts (Management) Regulations 2009*;
- 1.19. **Summer** means any period during any given year that is not Winter.
- 1.20. **Supplier** means the entity that operates to provide the goods and services relating to the Travel Product.
- 1.21. **Travel Products** include, but are not limited to, hotel rooms, apartments, vacation homes, campsites, vacation packages, activity passes, tours, event tickets, equipment rentals, lift tickets, ground transportation, resort services, spa services, souvenirs, travel insurance and any other items sold through the Booking Service.
- 1.22. **Travel Product Reservation Voucher** means the voucher provided to you by Buller Holidays once payment for the Travel Product has been made in full to be presented by you to the Supplier of the Travel Product as proof of purchase.

- 1.23. **Website** or **Site** means the website accessed via the URL [www.bullerholidays.com.au](http://www.bullerholidays.com.au) or any other URL licensed to, provided by or utilised by Buller Holidays.
- 1.24. **Winter** means the period of time during any year that is the Snow Season.

## 2. The Booking Service.

### (a) General

- (i) The Booking Service allows Guests to purchase Travel Product. The Booking Service offers both an online and offline booking service and other tools to allow the Guest and the Supplier to transact with each other and to enter into agreement regarding the Travel Product.
- (ii) Buller Holidays does not act as an agent in relation to the Travel Product. Buller Holidays is not a party to any contractual agreement between the Supplier and the Guest, even though it provides a booking and payment platform.
- (iii) Buller Holidays does not mediate between the Supplier and the Guest in the event that a dispute arises between them.
- (iv) The Guest enters into any transaction with the Supplier(s) or any third party at its own risk.
- (v) If you are purchasing any Travel Product on behalf of another person, you make that purchase as the agent of the other person with the effect that the other person will be bound by these Conditions.
- (vi) These Conditions are governed by the laws of the State of Victoria and the Courts of which will have exclusive jurisdiction.
- (vii) If a provision of these Conditions is found to be void, invalid or unenforceable it shall be deemed to be severed from these conditions and all remaining provisions will remain of full legal effect.

### (b) Website

- (i) The Domain name [www.bullerholidays.com.au](http://www.bullerholidays.com.au) is owned by Buller Holidays and its use is subject to its terms and conditions. Buller Holidays has provided proprietary material for display on that site.
- (ii) The Website is provided by Buller Holidays.
- (iii) This Website may from time to time display third party advertisements. Such advertisements may or may not contain hyperlinks to third party websites. Buller Holidays does 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.
- (iv) Copyright in the Website is owned by Buller Holidays or its licensors.
- (v) The material available on this Website is copyright protected. You may download,

store, display on your computer, view, listen to, play and print materials that the Buller Holidays publishes or broadcasts on the Website or makes available for free download through the Website subject to the following: (a) the materials may be used by you solely for your own information and evaluation purposes relating to the Travel Products; (b) the materials may not be modified or altered in any way; and (c) the materials may not be redistributed or sold to other parties.

- (vi) No content of this Website may be used, reproduced, distributed, stored in an electronic or other retrieval system, adapted, uploaded to a third party location, framed, performed in public or transmitted in any form by any process whatsoever without the written permission of Buller Holidays except:
  - (1) as expressly permitted in these Conditions; or
  - (2) as permitted under the Copyright Act 1968 (Cth) or other applicable laws.
- (vii) The Website may contain trademarks or logos of Buller Holidays, other companies or organisations and these are proprietary to the owner(s) of such marks. No use of the trademarks or logos without prior written permission of Buller Holidays is permitted.
- (viii) Buller Holidays may at any time discontinue or limit access to the Website or its content. Buller Holidays may terminate or limit the Guests access to the Website if the Guest breaches these Conditions. All disclaimers and limitations of liability by Buller Holidays will survive termination.
- (ix) To the extent available by law, Buller Holidays gives no guarantees or warranties in relation to this Website. In particular, Buller Holidays does not warrant that:
  - (a) the Website 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;
  - (b) the Website or any content will meet your requirements; or
  - (c) the content does not infringe any third party intellectual property rights.

## 2.1. Agreement - Conditions of Purchase

- (a) These Conditions of purchase, supply and use together with any additional conditions of the Website form the Conditions of access to and use of this Booking Service.
- (b) If you make a booking for a Travel Product, you are irrevocably declaring that:
  - (i) You are 18 years of age or over; and
  - (ii) You are the authorised holder (or acting lawfully with the true consent of the authorised holder) of the credit card used to make payment for the booking;
- (c) By using this Booking Service you confirm that:

- (i) you have read and agree with these Conditions and any changes to them and acknowledge to be bound by them and
  - (ii) you agree with the terms of the House Rules for each Travel Product purchased and any changes to them and acknowledge to be bound by them.
- (d) If you do not agree with these Conditions, you should immediately stop using this Site.

## **2.2. Security Policy**

- (a) When purchasing from the Website or Booking Service your financial details are passed through a secure server.
- (b) No transmission over the Internet can be guaranteed as totally secure. Whilst Buller Holidays strives to protect such information, it does not warrant and cannot ensure the security of any information which you transmit to it. Accordingly, any information which you transmit to Buller Holidays, including your credit card details, is transmitted at your own risk, and Buller Holidays shall have no liability to you for any financial or consequential loss or damage suffered by you in anyway whatsoever arising out of or related to your use of the Website or Booking Service whether due to negligence, breach of contract, statute or statutory duty by Buller Holidays.
- (c) Once Buller Holidays receives your transmission, it will take reasonable steps to preserve the security of such information and will otherwise deal with the data in accordance with the Privacy Policy.

## **3. Variation to the Conditions**

- (a) Buller Holidays retains the right to vary these Conditions from time to time, including changing the availability and prices of any Travel Products.
- (b) Any variations become effective on posting of the changes on the Website.
- (c) By making a purchase through the Booking Service you agree to be bound by these Conditions and by any later variation to them when posted on the Website. Buller Holidays encourages users to review this document regularly to keep abreast of such changes.

## **4. Payment**

- (a) The price of the Travel Products shall be the price displayed on the Website or otherwise provided through the Booking Service in Australian Dollars on the date of your order (inclusive of goods and services tax and any other charges which must be mandatorily disclosed under the Act but exclusive of any delivery charges which are payable by you).

- (b) Full payment is to be made at the time of booking the Travel Product.
- (c) Upon receipt of payment, You will be issued with a Product Reservation Voucher. You are required to present this to the Supplier of the Travel Product on your arrival.

## 5. Cancellation and Amendment

### 5.1. Cancellation Due to Error or Unavailability

- (a) You acknowledge that despite Buller Holidays reasonable precautions, Travel Products may be listed at an incorrect price, with incorrect information, or which are unavailable due to a typographical error or other oversight of the Travel Product. In these circumstances, Buller Holidays reserves the right to cancel the transaction, notwithstanding that your order has been confirmed and your credit card has been charged. Buller Holidays reserves this right up until the time of delivery or use of the Travel Products.
- (b) If a cancellation of this nature occurs after your credit card has been charged for the purchase the Supplier of the Travel Product will immediately, or as soon as practical, contact you to arrange alternate Travel Product or issue a credit to your credit card account for the amount in question.

### 5.2. Cancellation General

(a) **Winter:**

If you wish to cancel your Travel Product booking

- (i) you are required to inform Buller Holidays in writing 30 days or more prior to your scheduled arrival dates. A \$100.00 cancellation fee will apply and the balance will be fully refunded.
- (ii) Cancellation of your reservation less than 30 days prior to your arrival date or for No Show will result in a forfeiture of the total amount paid.

(b) **Summer:**

If you wish to cancel your Travel Product booking:

- (i) you are required to inform Buller Holidays in writing 48 hours prior to the scheduled arrival date. A \$100.00 cancellation fee will apply and the balance will be fully refunded.

- (ii) Cancellation of your reservation less than 48 hours prior to your arrival date or for No Show will result in a forfeiture of the total amount paid.

**5.3. Amendment Policy**

- (a) Travel Product bookings may be amended at Buller Holidays discretion up to 72 hours prior to arrival.
- (b) Subject to availability, the reservation may be changed by mutual agreement to a date within six (6) months of the original booking without penalty.

5.4. No refund is provided in any other circumstances.

5.5. Buller Holidays recommends that you obtain travel insurance.

**6. Apartment Accommodation.**

**6.1. Security Deposit**

- (a) A \$500 credit card security deposit is required at check in. Buller Holidays reserves the right to make a claim on the security deposit and charge the credit card if:
  - (i) the accommodation requires extra cleaning, including unwashed dishes;
  - (ii) there is damage, breakages or losses to the accommodation and/or furniture/furnishings;
  - (iii) attending a service call that is found not to be required;
  - (iv) the accommodation is left unsecured resulting in loss or damage;
  - (v) removal of excess rubbish left at the accommodation;
  - (vi) costs for consumption charges, including, but not limited to pay TV, telephone and room services charges that were not paid at the time of departure;
  - (vii) there has been a breach of tenancy for overcrowding the accommodation at a rate determined by the Buller Holidays having regard to the extent of overcrowding and the damage and or nuisance caused.
- (b) All furniture, furnishings and equipment in the accommodation must be left as originally found. Any damage, breakages or losses to the accommodation and/or the furniture/furnishings are to be immediately reported to Buller Holidays and paid for immediately save and except for fair wear and tear.

**6.2. Number of Guests**

- (a) Apartment rates are based on the advertised maximum number of people that can be accommodated. No additional persons may be permitted to stay in the Apartment.
- (b) Extra adults are charged at rates set out on the Website.

**6.3. Meal Packages**

To determine whether meal packages are available with your booking refer to the Website.

**6.4. Check In / Check Out and Transport**

Please refer to the "House Rules" for your accommodation Supplier.

**6.5. Apartment Letting Rules**

- (a) All accommodation has a strict NO SMOKING policy.
- (b) Pets are not allowed in the accommodation.
- (c) All accommodation is for residential purposes only. Functions and parties on the premises are strictly not allowed. Buller Holidays reserves the right to terminate your tenancy immediately if you cause nuisance or annoyance to neighbours.
- (d) No responsibility is taken for any personal property left at the accommodation.
- (e) Guests are responsible for the safekeeping and replacement of any accommodation keys or garage door openers. Duplicate keys are not always available. Guests requiring a key after office hours will be charged a service fee.
- (f) You are required to allow repair and/or service personnel to enter the accommodation for the purpose of conducting any repair or service deemed necessary by the Buller Holidays between the hours of 8.30 AM and 5.00 PM, plus other times in the case of emergency. Where possible, you will be provided with prior notice of entry.
- (g) Different accommodation may have additional rules or conditions that apply to that accommodation. These will be displayed within the property and the House Rules and will form part of these terms and conditions.

**7. At Risk Recreational Products**



**7.1. Exclusion of Liability**

- (a) There are inherent risks associated with snow sports and participation in alpine activities. All Travel Products, in particular lift tickets, ski and snowboard school lessons, rental equipment and like Travel Products are sold in accordance with the waiver and terms and conditions contained on the Website and in particular the waiver terms and conditions of the Suppliers of those Travel Products.
- (b) The Guest acknowledges that the recreational activities are dangerous with many inherent risks and hazards and as a consequence personal injury (including serious personal injury) and sometimes death can occur and the Guest assumes and accepts all such risks and hereby waives the right to sue the Supplier for any personal injury or death suffered by the Guest in any way whatsoever caused by or arising from the Guest's participation in such activities.

**8. Marketing and Promotions**

- (a) The "Mt Buller Snow Guarantee" and "Kids Stay Free" are available for some packages.
- (b) To determine whether the "Mt Buller Snow Guarantee", "Kids Stay Free" or any other promotion is available, please refer to the Website.

**9. Privacy Policy**

- (a) You agree and authorise Buller Holidays and its agents to do each of the following:
  - (i) Collect your personal information provided by you on this site;
  - (ii) Use your personal information for administering and operating this site and for marketing purposes such as planning, researching, promoting and/or marketing any goods and/or services Buller Holidays and/or a permitted third party by email, mail or telephone; and
  - (iii) Disclose and/or transfer the personal information to related bodies corporate, officers, employees, contracted service providers such as software providers, agents of of Buller Holidays and to the Travel Product providers.
- (b) We will only collect the personal information which is required for the functions and/or activities of the Buller Holidays and the Travel Product you are purchasing. Your personal information will not be disclosed by Buller Holidays to any overseas recipients.

- (c) Your personal information that is requested by the Travel Product you are purchasing will be disclosed to the Supplier of the Travel Products. Please refer to the privacy policy of the Travel Product Supplier for further information.
- (d) We will offer you opportunities to OPT-OUT of receiving all communications (or selected communications) from Buller Holidays. If you elect to opt out, we will ensure your details are excluded from all internal marketing lists and future promotions. However, if you do take advantage of any offer from a third party organisation, they may send further offers to you directly.
- (e) For more information regarding the kind of personal information we collect, how we collect your information, the purposes for which the information is collected and how you can complain about any Australian Privacy Principles breach, please visit the Privacy Policy on the Website.
- (f) You can access, update, delete or correct any request to delete any personal information relating to you held in Buller Holidays' database by contacting our Privacy Officer at [privacy@bullerholidays.com.au](mailto:privacy@bullerholidays.com.au).

## **10. Guest Complaints & Grievances**

### **10.1. Guest Complaints regarding Suppliers and Travel Products**

- (a) Guest complaints received by Buller Holidays regarding Travel Products shall be forwarded to the Supplier to take appropriate action.
- (b) The Supplier must respond to the Guest within 14 days of receipt and provide Buller Holidays with a copy of the response to the Guest.

### **10.2. For Guest complaints regarding Buller Holidays**

Before any dispute litigation or other action is taken by a Guest against Buller Holidays, it must first serve notice to Buller Holidays outlining the complaint or grievance and requesting that a meeting take place to seek to resolve the dispute. The senior representatives of both parties (as nominated by the respective party from time to time) must meet within 10 Business Days of service of the notice and try to resolve the dispute in good faith.

## **11. Notices**

All notices to a party shall be sent by email.

## **12. Warning Under The Australian Consumer Law And Fair Trading Act 2012**

Under the *Australian Consumer Law* (Victoria), several statutory guarantees apply to the supply of certain goods and services. These guarantees mean that the supplier named on this form is required to ensure that the recreational services it supplies to you:

- (a) are rendered with due care and skill; and
- (b) are reasonably fit for any purpose which you, either expressly or by implication, make known to the supplier; and
- (c) might reasonably be expected to achieve any result you have made known to the supplier.

Under section 22 of the *Australian Consumer Law & Fair Trading Act 2012*, the supplier is entitled to ask you to agree that these statutory guarantees do not apply to you. If you sign this form, you will be agreeing that your rights to sue the supplier under the *Australian Consumer Law & Fair Trading Act 2012* 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 these Conditions.

**NOTE:** The change to your rights, as set out in this form, does not apply if your death or injury is due to gross negligence on the Supplier's 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 Act 2012* and section 22(3)(b) of the *Australian Consumer Law & Fair Trading Act 2012*.