

**XTREME KITES & PADDLE PTY LTD – PHONE: 0402 842 944**

**RELEASE AND WAIVER OF LIABILITY**

**ASSUMPTION OF RISK AND IMDEMNITY AGREEMENT**

This is an important document which sets out your legal rights and obligations when participating in activities provided by Xtreme Kites and Paddle Pty Ltd. Would you please read through the document carefully and do not sign the document unless you are satisfied that you understand it. If you have any questions please ask a representative of Xtreme Kites and Paddle Pty Ltd. Please initial each page to demonstrate you have read and understand each page and sign and date the last page.

**1. DEFINITIONS**

**1.1 The Participant – (please print clearly)**

I,.....Date of Birth...../...../.....  
Home address.....  
City/State/Country.....  
Contact address is Australia.....  
Emergency contact name.....  
Emergency contact phone no.....

**1.2 Xtreme Kites and Paddle Pty Ltd:**

Xtreme Kites and Paddle Pty Ltd (ACN 140 120 387) as trustee for The Easton Family Trust (ABN 806 006 31659) including all affiliated and associated servants, employees, agents, CEO, Directors, members etc.

**1.3 The Activity:**

- Kite boarding/ Kite surfing/Wake boarding;
- Stand up paddle boarding;
- Kayaking;
- Power kite flying;
- Kite buggying;
- Surfing;
- Street Stand Up Paddle;
- Electric Skateboarding;
- Off Road Scooters & Electric Skate
- Slack Lining

**1.4 The Risks of Activity:**

2. Risk of injury or death by colliding with others participating in the same or similar activity;
3. Risk of injury or death by not being able to use equipment properly;
4. Risk of injury or death by aquatic life eg: stingrays, jellyfish, sharks etc;
5. Risk of injury or death by weather conditions including extreme wind, sun exposure etc;
6. Risk of injury or death from slipping or falling.

7. Risk of injury or death by objects in sand such as broken glass, needles, garbage etc.

## **8. ACKNOWLEDGMENT**

The participant acknowledges that:

- (a) I am a consumer of Xtreme Kites and Paddle Pty Ltd;
- (b) I am being supplied with a recreational service by Xtreme Kites and Paddle Pty Ltd;
- (c) The activity is a dangerous recreational activity which involves a significant risk of physical harm;
- (d) I may be injured in performing the activity;
- (e) My personal property may be lost, damaged or destroyed in performing the activity;
- (f) Other people may cause me injury or damage my property in the course of performing the activity;
- (g) I may cause injury to other persons or damage their property in performing the activity;
- (h) The natural conditions of which the activities conducted may vary without warning;
- (i) My participation in the activity is voluntary and I have not been required to Xtreme Kites and Paddle Pty Ltd to engage in the activity;
- (j) I have disclosed any pre-existing medical or other condition that may affect the risk that either I or any other person will suffer injury, loss or damage;
- (k) Xtreme Kites and Paddle Pty Ltd relies on the information provided by me and I state that all such information is accurate and complete;
- (l) I am aware of the dangers associated with the consumption of alcohol, mind altering substance, drug or other substance which may impair my judgment, physical ability or capacity to safely participate in the activity and accept full responsibility for any injury, loss or damages associated with my consumption of alcohol, mind altering substances, drug or other substances which impairs my judgment, physical ability or capacity to safely participate in the activity;
- (m) This document recalls the entire agreement between Xtreme Kites and Paddle Pty Ltd and myself in relation to the activity and my participation in it;

(n) I have not relied upon any advice, representations or inducement by or on behalf of Xtreme Kites and Paddle Pty Ltd in:

- i. deciding to participate in the activity;
- ii. signing this document.

**9. RISK WARNING**

- 1. I acknowledge that I have been warned of the risks of the activity.
- 2. I acknowledge that the activity may also involve other risks not noted in the risk of the activity listed on the page 1. of this document.
- 3. Xtreme Kites and Paddle Pty Ltd has placed signs and adequate warnings around the site in which the activity to be performed warning of the risk of any injury and I have read the signs and understand the warnings provided.
- 4. Xtreme Kites and Paddle Pty Ltd has provided me with oral warnings of the risks of the activity and the risks of physical harm in participating in the activity.

**10. ASSUMPTION OF RISK**

Notwithstanding significant risks of physical harm and injury in the activity, some of which are noted above, I agree to participate in the activity at my own risk.

**11. DECLARATION FOR MINORS**

If any participant is under 18 years of age on this day, the declaration must be signed by a parent or guardian of the participant. The persons named below warrant and certify that he or she is the parent or guardian of the child/children named below and the child/children have my/our consent and is capable or participating in the activities. The person(s) named below confirm that he/she has read and understand this declaration, warrant, waiver and release and agrees, on behalf of the child, to be bound by each of those conditions and having done so, signs voluntarily.

Name of Participant #1.....(the child) Aged ...

Name of Participant #2.....(the child) Aged ...

Name of Participant #3.....(the child) Aged ...

Name of Participant #4.....(the child) Aged ...

Signature of Parent/Guardian .....Date...../...../.....

Please print name in full.....

Relationship of Parent/Guardian of the child.....

Aged of Parent/Guardian.....

**12. WAIVER, RISK AND INDEMNITY**

- 1. I agree that the provisions of Section 74 of the *Trade Practices Act 1974 (Cth)* and any similar State legislative provisions (which provide for an implied warranty that service has been rendered with due care and skill and that any material supplied in connection with those services will be

reasonably fit for purpose) are excluded and do not apply to this contract insofar as they relate to liability for death or personal injury arising out of the activity.

2. I agree to release, waiver, discharge and forever hold harmless Xtreme Kites and Paddle Pty Ltd its servants, employees and agents from and against any liability arising out of any injury, loss, damage or death caused to me or my property or any other person arising from or in connection with my participation in the activity whether such injury, loss, damage or death was caused directly or indirectly by negligence, breach of contract or any way whatsoever other than where the injury, loss, damage or death was caused solely by the negligence of Xtreme Kites and Paddle Pty Ltd, its servants, employees or agents.
3. I agree to indemnify Xtreme Kites and Paddle Pty Ltd, its servants, employees or agents from all claims, damages, losses, injuries and expenses arising out of or resulting from my participation in the activity. The indemnification extends to all claims made by any other person against Xtreme Kites and Paddle Pty Ltd, its servants, employees or agents in respect of any injury, loss or damage arising out of or in connection with my participation in any activity other than the injury, loss, damage or death was caused solely by the negligence of Xtreme Kites and Paddle Pty Ltd, its servants, employees or agents.

**13. MISCELLANEOUS**

1. I agree to comply with all rules and directions made or given by Xtreme Kites and Paddle Pty Ltd in connection with the activity.
2. I understand that if I fail to comply with the rules and/or directions of Xtreme Kites and Paddle Pty Ltd I may be injured or injure someone else.
3. Further I understand that I would not be permitted to continue the activity and no refund will be given if I do not comply with all rules and directions.
4. I agree to report all accidents, injuries or loss or damage sustained by me to Xtreme Kites and Paddle Pty Ltd before I leave the site on which the activity is performed.
5. I agree that if I suffer any injury or illness I agree that Xtreme Kites and Paddle Pty Ltd may provide or arrange evacuation, first aid and medical treatment any my expense.

**14. MEDICAL DISCLOSURE**

Please outline any medical conditions or other conditions that may be relevant to the performance of the activity.

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**I acknowledge that I have read the terms of this document and that it has been explained to me, I fully understand its terms and that I have given up**

**substantial rights by signing. I sign the document freely and voluntarily without inducement made to me.**

Signed..... Witness (sign).....

Full name..... Full name.....

Date..... Date.....