

# Berkshire East Mountain Resort Mountain Coaster

## ACKNOWLEDGMENT OF RISKS & HAZARDS, LIABILITY RELEASE, INDEMNITY & HOLD HARMLESS AGREEMENT & AGREEMENT NOT TO SUE

1. I accept for use, as is, the equipment listed on this form and accept full responsibility for its care while it is in my possession. I agree to RELEASE, FOREVER DISCHARGE, INDEMNIFY, DEFEND and HOLD HARMLESS Berkshire East Ski Resort for all loss or damage I may cause to this equipment, except for reasonable wear and tear to the equipment and I acknowledge and agree that I will be responsible for the repair or replacement, at full retail value, to the equipment listed on this form for any damage other than reasonable wear and tear. Participant agrees that their use of the facility, grounds and participation in activities on or offsite is contingent upon reading all signs and following all verbal and written instructions.

2. I understand that participating in the Mountain Coaster and the use of Mountain Coaster and their associated equipment and facilities, as well as my presence on the premises, are HAZARDOUS ACTIVITIES. I understand that participating in the Mountain Coaster involves risk of injury to any and all parts of my body. I understand that there are numerous risks and dangers inherent in these activities, including but not limited to: unevenness of the ground surface which contains rocks, tall and slippery grass, bumps and ruts, the steepness of the terrain, the configuration of the Mountain Coaster facilities, slipping or falling, impacting objects or being impacted by objects, equipment malfunction, equipment misuse by either the participant or other participants or employees of Berkshire East Ski Resort.

There are also natural, mechanical and environmental conditions and risks, associated with Mountain Coaster activities, which independently or in combination with my actions, or the actions of others that may cause severe or even fatal injuries to me or others. I agree that I alone am responsible for my safety while participating in these activities. I understand that having a Berkshire East Ski Resort (BESR) employee present does not lessen the amount or severity of the risks of participating in the Mountain Coaster in an alpine setting. I understand that BESR is not responsible for my safety. I understand and accept that minor injuries may become life-threatening emergencies when alone or far away from others or convenient facilities.

3. I hereby certify that I am physically fit and have no medical conditions or allergies that affect my ability to participate in this activity.

**Initials:** \_\_\_\_\_

4. I hereby freely and expressly assume and accept the responsibility for any and all risks of injury or death while participating in this activity or related activities, or while present on RELEASEES' premises, and I agree to RELEASE, FOREVER DISCHARGE, INDEMNIFY, DEFEND and HOLD HARMLESS Berkshire East Ski Resort, its parent, subsidiary, affiliated and successor companies, real and personal property owners, directors, officers, agents, employees, as well as the equipment manufacturers and distributors, hereafter RELEASEES from ALL LIABILITY FOR NEGLIGENCE and any and all losses, damages, costs and attorney's fees resulting from any and all claims or suits for personal injury, death and/or property damage that may in any way arise out of my participation in this activity, related activities, or my use of the RELEASEES trail system, mountain coaster, passenger tramways, its equipment, or any equipment, its maps and guides, premises, regardless of how or by whom or by what the personal injury, death and/or property damage was caused. I promise not to sue the RELEASEES and agree that if anyone is physically injured or property is damaged while I am using the RELEASEES' premises, facilities and equipment, I will have no right to make a claim or file a lawsuit against the RELEASEES, for any reason and under all circumstances.

**5. I AGREE TO RELEASE, FOREVER DISCHARGE, INDEMNIFY, DEFEND, AND HOLD HARMLESS THE RELEASEES FROM ANY AND ALL CLAIMS, SUITS, COSTS AND ATTORNEYS FEES FOR DAMAGE AND PERSONAL INJURY TO ME OR MY PROPERTY RESULTING FROM THE NEGLIGENT ACTS OR OMISSIONS OF THE RELEASEES. I UNDERSTAND THAT THE RELEASEES ARE NOT RESPONSIBLE FOR THE CONSEQUENCES OR THEIR OWN NEGLIGENCE, THAT IS, THEIR FAILURE TO USE REASONABLE CARE IN ANY WAY.**

6. I understand that this agreement shall be binding upon my heirs, executors, administrators, and assigns and shall be governed by the applicable laws of Massachusetts. I also understand that if any part of this agreement is determined to be unenforceable, all other parts shall be given full force and effect. I agree that any claims that I may bring against the RELEASEES shall be submitted to the jurisdiction of the state or federal Courts in Massachusetts and that no claims against the RELEASEES shall be brought in any other jurisdiction. I agree that there have been no warranties, expressed or implied, which have been made to me, which extend beyond the description of the equipment listed on this form.

7. I consent to the use by RELEASEES of any pictures (video and print) for commercial purposes, or otherwise, in connection with these activities, without restriction as to frequency, duration or medium.

8. I understand that permission to use RELEASEES' equipment, trails, transportation and premises is being given to the undersigned participant in exchange for the execution of this Liability Release and Agreement Not to Sue.

9. I have read the above paragraphs and fully understand them. I understand that this is a RELEASE OF LIABILITY, which will legally prevent me or any other person from filing suit, or making any other claims for damages in the event of personal injury, death or property damage. I freely and voluntarily enter into this agreement. I have made no misrepresentations to RELEASEES regarding my name, age, or medical condition. I intend this document to be interpreted as broadly as permissible by Massachusetts law and understand that it is not intended to assert any claims or defense prohibited by law.

**PARTICIPANT'S NAME (Please Print):** \_\_\_\_\_ **DOB:** \_\_\_\_\_

**PARTICIPANT SIGNATURE:** \_\_\_\_\_ **DATE:** \_\_\_\_\_

..... **To be completed by a parent or legal guardian for participants under age 18** .....

**Parent/Guardian's Name (Please Print):** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Signature:** \_\_\_\_\_ **E-Mail:** \_\_\_\_\_

As parent/guardian signing this agreement for the above named minor, I acknowledge and agree that I have read the above document, and that by signing this document on behalf of the minor, the minor and I agree to be bound by its terms. I hereby agree to INDEMNIFY, DEFEND and HOLD HARMLESS the RELEASEES for any claim or suit arising out of said minor's participation in the activity or said minor's presence on RELEASEES' premises