

NOAH'S ARK ADVENTURE PROGRAM, LTD. PARTICIPANT RELEASE OF LIABILITY, WAIVER OF CLAIMS, ASSUMPTION OF RISKS AND INDEMNITY AGREEMENT Name _____

In consideration of the services of Noah's Ark Whitewater Rafting Company, d/b/a Noah's Ark Adventure Program, Ltd., its agents, owners, officers, volunteers, participants, employees, and all other persons or entities acting in any capacity on their behalf (hereinafter collectively referred to as "N.A."), I hereby agree to release and discharge N.A. on behalf of myself, my parents, my heirs, assigns, personal representative and estate as follows:

1. **Inherent Risks** I acknowledge that any adventure activity such as rafting/canoeing, rock climbing, hiking or backpacking entails known and unanticipated risks that could result in physical or emotional injury, death, or damage to myself, to property, or to third parties. I understand and acknowledge that the enjoyment and excitement of adventure activities is derived in part from inherent risks incurred by activity beyond the accepted safety of life at home or in my normal day to day activities and that these inherent risks contribute to my enjoyment and excitement and are an integral reason for my participation in these activities. I understand that such risks simply cannot be eliminated without jeopardizing the essential qualities of the activity. **I acknowledge that I AM ULTIMATELY RESPONSIBLE for my own safety during my participation in N.A. events/activities.** I also understand and acknowledge that failing to use or properly use safety type equipment increases my risk of injury or of not surviving an accident or incident while participating in adventure activities.

The inherent risks associated with the **rafting, canoeing or water related activity** (hereafter "boating") in which I am about to participate include, but are not limited to: encountering whitewater rapids and changing water flows and the possibility that I will be jolted, jarred, bounced, thrown to and fro and shaken about during rides through some of these rapids or changing water flows; it is possible that I could be injured if I come in contact with food boxes, oars/paddles, other storage containers, or other fixed equipment necessary to the operation or outfitting of the boat; I recognize there are foot cups or foot holds in some watercraft which may assist in stabilizing or holding myself or others in the watercraft but which may present an increased risk of knee, ankle or other injury as a result of restricted movement; the boat may break down or be faulty; it is possible that loss of control of the boat could occur resulting in collision or capsizing or sinking and that if a boat turns over or flips I could be "washed" overboard; boats are slippery when wet and are naturally unstable so that I could slip and fall or be knocked out of the boat even in flat or non-moving water; while in the water I may become disoriented, panicked and/or experience trauma from rocks, boulders, etc; I can slip or fall during hiking or portaging or getting to and from the boat and I understand that the areas in which I might hike sometimes hide dangerous obstacles such as tree wells, tree stumps, creeks, rocks and boulders, forest dead fall, etc.; the boat or any portion of it may collide with or encounter other boats, man-made or natural objects including submerged or semi-submerged trees, rocks, branches, boulders, bridges, etc.; accidents can occur getting on and off the boat; exposure to the natural elements can be uncomfortable and/or harmful and I am aware that this exposure could cause sunburn, dehydration, heat exhaustion, heat stroke, heat cramps or fatigue, some or all of which may diminish my or the other participants' ability to react or respond; I understand that prolonged exposure to cold water can result in "cold water immersion" syndrome or "cold shock," hypothermia and in extreme cases death; I may encounter dangerous wildlife, insects, etc.; communication in the river terrain in which this activity occurs is always difficult and in the event of an accident, rescue and medical treatment may not be immediately available. **I acknowledge that I AM ULTIMATELY RESPONSIBLE for my own safety during my participation in N.A. events/activities.**

I acknowledge that N.A. **rock climbing, hiking and/or backpacking** events/activities (including trips, climbs, rappelling, hikes, treks, classes, expeditions, camping, etc.) are generally what is known as "mountaineering" type activities which 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. Mountaineering activities are most commonly exploratory in nature and are considered **RUGGED ADVENTURE OR RECREATIONAL ACTIVITIES**. I acknowledge that the inherent risks associated with these activities includes but is not limited to the following: I can slip or fall during hiking, climbing or getting to and from the activity areas; I understand that the areas in which I might hike, backpack or climb and/or which are used by N.A. for its activities include beautiful mountain, valley and meadow terrain; the natural beauty of these areas sometimes hide dangerous obstacles which present additional inherent risks. Those obstacles or risks include, but are not limited to: roots, branches and other debris on the trails, tree wells, tree stumps, creeks, rocks and boulders, forest deadfall, holes and depressions, submerged objects in flooded or wet areas, thin ice and deep water and varying and difficult conditions. I acknowledge that it is my sole responsibility to observe and make myself familiar with the areas in which N.A. activities occur. Participants may become lost or separated from their companions in forested areas, wild and rugged terrain, or bad weather. I acknowledge that I may encounter hazards such as: loose, falling, rolling and breaking rock; unstable or loose rock, talus and/or scree slopes, boulders; snow, rock and ice or snow avalanches or massive loosening and movement of dirt and rock; objects - whether equipment, rocks/earth/ice, timber or other participants - falling from above.

I specifically acknowledge also that N.A. events/activities may involve **lodging/camping/bivouacking in rustic and rugged** situations which may present "comfort style" issues for which I accept responsibility. I acknowledge that food preparation is an integral part of some of these activities and that I and other participants may be eating in the outdoors or community style environments and that some of the food may not be to my liking; there may be errors in food storage or preparation that could cause my dissatisfaction and/or illness; I acknowledge my responsibility to inform N.A. of any specific food related allergies. Water purification systems may or may not be used and/or may or may not function correctly; I specifically acknowledge that, in the event I choose to consume alcohol during my trip, I will bear complete responsibility for myself and for any damages I may cause to N.A., its property or to other guests.

I acknowledge that my time at N.A. events/activities may require me to use equipment (IE - tents, stoves, water filtration, etc.) that I might not be familiar with and will require me to interact with other guests and participants with whom I am also unfamiliar; any of these things can cause my discomfort and stress and have inherent risks. I acknowledge that I could be left alone, unsupervised and/or out of contact with a guide/staff person for extended periods of time. I acknowledge that there are numerous other issues I may encounter, such as campfires and latrine issues which, while they seem open and obvious, also have inherent risks associated with them.

I acknowledge that, in the remote locations used by N.A., participants may experience extreme **environmental** and/or weather conditions. Exposure to the natural elements can be uncomfortable and/or harmful and I am aware that this exposure could cause sunburn, dehydration, heat exhaustion, heat stroke, heat cramps or fatigue, frostbite and high altitude illnesses (HAPE and/or HACE), some or all of which may diminish my or the other participants ability to react or respond. Common (sometimes life threatening) injuries for these types of activities include, but are not limited to the following; strains, sprains, burns, fractures, cuts, and/or wounds and trauma to the head or body. Participants may encounter dangerous wildlife or insects. Delays or inconvenience because of inclement weather, including but not limited to low visibility, high winds, heavy rain or snow, storms or lightening, extreme temperature variations, etc., can occur. Communication in the terrain used by N.A. for its activities can be difficult and in the event of an accident, rescue and medical treatment may be significantly delayed or unavailable.

I acknowledge that my time at N.A. events/activities may require me to use **technical equipment** (IE - ropes, ice axes, watercraft, carabiners and other hardware) that I might not be familiar with and that I or other participants may find difficult to use and which I or other participants may use incorrectly. This improper use or operation may include, but is not limited to: the failure to observe and obey all safety rules or instructions given to the participant by N.A. or guides/staff. I acknowledge that, despite reasonable care and maintenance, essential equipment may fail, malfunction or cause injury or worse harm to myself or others.

I acknowledge that I may choose to participate in activities that are provided by **other vendors or operators** over which N.A. has no control. Those activities are incidental to the activities provided by N.A. and may involve errors in judgment by the other vendors or operators for which N.A. can bear no liability. I acknowledge that **N.A. is not a "Common Carrier"** but rather is in the adventure trip (rock climbing, hiking, rafting, backpacking, etc.) business. Transportation to and from activities is incidental to the activity. Transport and car, bus or van travel in some instances may be provided by N.A. and/or N.A. employees and may involve errors in judgment by N.A. staff operating the vans, buses, cars or other transport vehicles. The vehicles and transport trailers may malfunction, break down or be poorly maintained, causing injury, accidents, delays or in the extreme case, death. Transport may be provided by independent contractors to N.A. and may involve errors in judgment by those independent contractors.

Furthermore, **N.A. guides/staff** have difficult jobs to perform. They seek safety, but they are not infallible. They might be ignorant of a participant's fitness or abilities. They might misjudge the weather, the elements, or the terrain. They may give inadequate warnings or instructions and/or I as the participant may fail to understand the safety directions due to language issues. I specifically acknowledge that decisions made by guides/staff and participants are often made in wilderness/remote/dangerous settings and are made based on often imprecise, momentary and subjective perceptions so that decisions are subject to errors in judgment that can not and should not be associated with fault at a later point in time.

2. **Express Assumption of Risk** As lawful consideration for being allowed to participate in activities offered by N.A., I expressly agree and promise on behalf of myself and any of the children for which I am responsible, to accept and assume all the risks existing in this activity. My/our participation in this activity is purely voluntary, and I/we elect to participate in spite of the risks. I/we expressly agree and acknowledge that the terms and conditions of this Release of Liability, Waiver of Claims, Assumption of Risks and Indemnity Agreement are contractual in nature and that I/we are signing it of our own free will.

3. **Release and Waiver of Rights Including for Claims of NEGLIGENCE** On behalf of myself and any of the children for which I am responsible I hereby voluntarily release, forever discharge, and agree to indemnify and hold harmless N.A. from any and all claims, demands, or causes of action, which are in any way connected with my participation in this activity or my/our use of N.A.'s equipment or facilities, including any such Claims which allege negligent acts or omissions of N.A.

4. **Indemnity** Should N.A. or anyone acting on their behalf, be required to incur attorney's fees and costs to enforce this agreement, I agree on behalf of myself and any of the children for which I am responsible to indemnify and hold them harmless (in other words, I agree to pay for...) for all such fees and costs.

5. **Personal Skill & Insurance** I certify on behalf of myself and any of the children for which I am responsible that I/we have sufficient skill and fitness to participate in the activities offered by N.A. I further certify that I/we have no medical, mental or physical conditions which could interfere with my/our safety or ability to participate in these activities, or else I/we are willing to assume and bear the cost of all risks that may be created, directly or indirectly, by any such condition. I/we further certify that I/we have adequate insurance to cover any injury, damage or emergency transportation or search and rescue costs I/we may cause or suffer while participating, or else agree to bear the costs of such injury, damage or emergency transportation costs ourselves.

6. **Medical Issues** I agree on behalf of myself and any of the children for which I am responsible that, in the event that N.A. deems it necessary to administer emergency first aid or CPR or to remove me/us from its activities or premises or from the field or to seek emergency medical care for me/us that, by signing this document, I/we are giving N.A. 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/us to any health care provider which may become involved in my/our care, treatment or removal from the field. By signing this document I/we are waiving any right to object to or bring any type of action or claim against N.A. for 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/us to any health related person who becomes involved in my/our care or removal from N.A. activities or the field.

7. **Photographic Assignment** I understand that the N.A. reserves the right to take photographic or film (of whatsoever nature) records of any or all of its activities or trips and on behalf of myself and any of the children for which I am responsible I/we hereby agree that N.A. may use such records for promotional and/or commercial purposes without any remuneration to me. I/we hereby assign all right, title and interest I/we may have in or to any and all media in which my name or likeness might be used by N.A.

8. **Release as Contract and Personal Capacity** On behalf of myself and any of the children for which I am responsible I expressly agree and acknowledge that the terms and conditions of this Release of Liability, Waiver of Claims, Assumption of Risks and Indemnity Agreement are contractual in nature and that I/we are signing it of my/our own free will. I/we expressly acknowledge that I/we are not under the influence of drugs or alcohol at the time of my/our signing of this document and that there are no other impediments or reasons why I/we would lack the capacity to enter into this contract with N.A.

9. **Forum Selection, Severability, Breach of Contract/Warranty Waiver, Etc.** In the event I/we file a lawsuit against N.A., I/we agree to do so solely in the State of Colorado, and I/we further agree that the substantive law of that state shall apply in that action without regard to the conflict of law rules of that state and I/we hereby irrevocably waive any other jurisdiction or venue to which I or my estate might otherwise have been entitled. I/we agree to submit to the jurisdiction of the Colorado courts. I/we agree that if any portion of this agreement/contract is found to be void or unenforceable, the remaining portion shall remain in full force and effect; this document is intended to be interpreted as broadly as possible. A copy of this release contract can be used as if it were the original. I/we understand that this document constitutes the entire Agreement/Contract between ourselves and N.A. and that it cannot be modified or changed in any way by representations or statements of any nature (be they vocal, advertising, etc.) outside of this document; in other words, I/we are also waiving any claims I/we might have for breach of contract or warranty for statements or representations made outside of this release contract.

By signing this document, I acknowledge on behalf of myself and any of the children for which I am responsible that if anyone is hurt or property is damaged during my participation in this activity, I/we may be found by a court of law to have waived my/our right to maintain a lawsuit against N.A. on the basis of any claim from which I/we have released them herein.

I/WE HAVE HAD SUFFICIENT OPPORTUNITY TO READ THIS ENTIRE DOCUMENT (ALL 3 PAGES).

I/WE HAVE READ AND UNDERSTOOD IT, AND I/WE AGREE TO BE BOUND BY ITS TERMS.

Participant Signature: _____ Printed Name: _____

Address: _____ E-mail _____

City: _____ State: _____ Age: _____

Country: _____ Postal Code: _____ Phone #: _____ Date: _____

Parents or Guardians Additional Indemnification and Signature (Must be completed for participants under 18 years of age)

I/we represent that I/we have complete and absolute authority to bind, contract for and legally act on behalf of the minor child listed below; I/we believe and represent that I/we have the legal authority to make the waivers and releases contained herein. I/we understand and acknowledge that N.A. relies to its detriment on this representation. In consideration of my child or ward ("Minor") being permitted by N.A. to participate in its programs or activities, I further agree to indemnify (in other words, I agree to pay for...) and hold harmless N.A. from any and all claims which are brought by, or on behalf of Minor, and which are in any way connected with such use or participation by Minor.

Parent Signature: _____ Printed Name: _____

Parent Signature: _____ Printed Name: _____

Address: _____ E-mail _____

City: _____ State: _____

Country: _____ Postal Code: _____ Phone #: _____ Date: _____

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