

## CONTRACT & LIABILITY WAIVER & INDEMNIFICATION AGREEMENT

I am aware that during the river or mountain biking trip (and associated base camp or other activities such as lodging, camping, kayaking, mud obstacle course, hiking, swimming, horse riding, climbing, zip line tours, caving, ropes course, paint ball, snow tubing, ATV, lake activities, including Aqua-Jump, etc, in which I am participating under the arrangement of American Canadian Expeditions, Ltd., dba ACE Whitewater, aka ACE Adventure Resort, Wildwater Expedition Unlimited or North American River Runners (and/or associated companies including but not limited to: Mountain Cove, Inc., Adventure Expeditions, Inc., Riverworks, Inc., Gauley Outdoor Center, Inc., Montgomery's Outdoor Adventures), their agents, employees, associates, and equipment manufacturers, certain substantial risks and dangers may occur, including, but not limited to:

- hazards of traveling on a raft, canoe or kayak in normal, rough or flooded river conditions
- hazards of walking on railroad tracks (trains can be hard to hear in river gorges),
- attacks from wild or domesticated animals,
- hazards of jumping, diving or being thrown into unfamiliar water with submerged hazards, undercut rocks, and man made hazards,
- hazards of rafts flipping or dumping guests
- hazards of long, cold swims,
- hazards of being pinned under and/or against trees, rocks, rafts or other objects,
- contact with paddles, helmets, other guests or guides, food boxes or other containers,
- diseases from contaminated water,
- allergies from cleaning reagent,
- hazards of hiking, biking or horseback or ATV riding in rough terrain,
- disease,
- strains or sprains,
- fractures or punctures,
- partial and/or total paralysis,
- loss or damage to personal property,
- snake bites, insect bites and bee stings, (the above listed companies rarely carry medications),
- illnesses, or injury in remote places without medical facilities,
- failure of or lack of communication equipment,
- failure or lack of safety equipment,
- injuries occurring in rescue operations (rafts may bump other rafts, ropes may cause entanglements, rocks may be slippery),
- entrapment in caves,
- falls from man-made and natural cliffs,
- hazards of entering and leaving the raft,
- hazards of loading or unloading people or materials from vehicles,
- hazards from the force of nature,
- falling limbs or trees,
- problems or hazards related to travel by automobile, bus, ATV or other conveyance (vehicle accidents),
- problems or hazards related to consumption of alcoholic beverages by anyone,
- being struck by falling people,
- death,
- accidents,
- drownings,
- entrapment in rafts,
- slippery mud,
- eye injuries including blindness,
- equipment malfunction (paddles may break, rafts may come apart, etc.),
- frostbite or other cold related injuries,
- heat stroke, sunburn,
- briars and thorns,
- lightning,
- explosions (gas grills),
- fresh water amoeba infection,
- criminal acts,
- falls from elevated ropes, platforms or other structures or features

and that these risks and dangers may be caused by the negligence of the owners, employees, officers or agents of the above listed companies, negligence of others, accidents, breaches of contract, the forces of nature or other causes. **These risks and dangers may arise from foreseeable or unforeseeable causes including that a guide may misjudge terrain, weather, trail or river route location or water level and may be unaware of your fitness or abilities. Staff may give incomplete warnings or instructions. Decisions by guides or company staff are part of the inherent risk of rafting and of other activities.** In consideration of and as part payment

Any alteration to this waiver will prohibit the participation in all activities.

for the right to participate in such river and land activities and the services, food and alcoholic beverages, if any, arranged for me by the above listed companies, its agents, employees and associates, I **have and do hereby assume all of the above risks, and release, and will hold harmless, the above listed companies,** their agents, employees, associates and associated companies, or any other person from any and all liability, actions, causes of action, debts, claims and demands of every kind and nature whatsoever which I now have or which may arise out of or in connection with my trip or participation in any of the base camp or related activity. I further give permission for use or sale of any photograph or video showing me without further compensation to me. The terms hereof shall serve as a release, contract, indemnification (allowing collection of legal fees from plaintiffs), indemnification by parents or guardians (reimbursement of awards and legal fees in a winning suit brought by the minor or other parent), and assumption of risks for my heirs, executors and administrators and for all members of my family, including, minor's parents, any minors accompanying me.

I certify that I will not hold the above listed companies, their agents, employees or associated companies responsible for actions of independent or quasi-independent providers of activities which have been arranged for me by, or recommended to me by the afore listed entities. I am participating for enjoyment or thrills and understand that the activities require physical exertion and involve a challenge containing a potential risk of injury or death.

I certify that I will not hold any of the above listed companies, their agents, employees or associated companies responsible for any harm occurring wholly or partially as a result of any existing health problems including, but not limited to:

- reactions to bee stings or the constriction of airways due to cold weather or asthma,
- broken bones due to osteoporosis,
- hemophilia,
- heart disease,
- high blood pressure,
- pregnancy,
- loss of stamina or coherency due to diabetes.

If medical evacuation, including ambulance, Hi-railer, helicopter, due to new or existing medical conditions is arranged by the above listed companies, I agree to reimburse the above listed companies for any charges.

I specifically understand that I am releasing, discharging, and waiving any claims or actions that I may have presently or in the future for the negligent acts or other conduct by the owners, agents, officers or employees of the above listed companies.

This is a public area in which only minimal security may be provided; the same precautions against crime should be exercised here as anywhere else.

The venue of any dispute that may arise out of this agreement or otherwise between the parties to which the above listed companies or their agents is a party shall be the Fayette County Court in Fayetteville, WV. If any portion of this contract and release is found to be invalid, the remainder shall remain in full force.

I HAVE READ THE ABOVE WAIVER AND RELEASE/CONTRACT AND BY SIGNING IT AGREE IT IS MY INTENTION TO EXEMPT AND RELIEVE THE ABOVE LISTED COMPANIES & EMPLOYEES FROM LIABILITY FOR PERSONAL INJURY, PROPERTY DAMAGE OR WRONGFUL DEATH CAUSED BY NEGLIGENCE OR ANY OTHER CAUSE. I RECOGNIZE THAT I AM FREE NOT TO PARTICIPATE IN ANY ACTIVITIES.

## PARTICIPANT RESPONSIBILITIES

The West Virginia Whitewater Responsibility Act (WV Code 20-3B-1 through 5) imposes the following duties on participants in whitewater expeditions:

- (a) Participants have a duty to act as would a reasonably prudent person when engaging in recreational activities offered by commercial whitewater guides in this state.
- (b) No participant may:
  - (1) Board upon or embark upon any commercial whitewater expedition when intoxicated or under the influence of non-intoxicating beer, intoxicating beverages or controlled substances; or
  - (2) fail to advise the trip leader or the trip guide of any known health problems or medical disability and any prescribed medication that may be used in the treatment of such health problems during the course of the commercial whitewater expedition.  
**Do you have any health related issues that could affect you or other persons on the trip that you would like to discuss with the trip leader? (Ex: bee stings, allergies, asthma, heart problems, prescribed medications, injuries, etc.)**  Yes  No
- (3) Engage in harmful conduct or willfully or negligently engage in any type of conduct which contributes to or causes injury to any person or personal property; or
- (4) perform any act which interferes with the safe running and operation of the expedition, including failure to use safety equipment provided by the commercial whitewater outfitter or failure to follow the instructions of the trip leader or trip guide in regard to the safety measures and conduct requested of the participants; or
- (5) fail to inform or notify the trip guide or trip leader of any incident or accident involving personal injury or illness experienced during the course of any commercial whitewater expedition. If such injury or illness occurs, the participant shall leave personal identification, including name and address, with the commercial whitewater outfitters' agent or employee.

I understand that the Responsibility Act immunizes the outfitter from tort (legal) actions as long as the industry standard of care is met.

### West Virginia Bicycle Riders' Responsibility:

1. West Virginia state law requires all bicyclists fifteen years of age and under must wear a helmet. ACE/Wildwater/NARR requires that ALL riders wear a helmet.
2. Participants are responsible for all issued rental equipment including but not limited to damage to bicycle and its corresponding components and helmets. A credit card or other collateral will be held with rental form to cover any damage expenses.
3. The trail map is a general guide only and is not to scale. ACE/Wildwater/NARR cannot be held responsible for inaccurate information or the condition of the trails.
4. All rented equipment will be returned and checked back in at the specified time. If I fail to return by the specified time, I will be charged for the additional time. I agree to wash the bike when I return. After proper return, collateral items will be charged or returned.
5. For rental bikes, the adventure center does not provide shuttle service. In the event that I become lost or the bike breaks down while riding and I request a pick up, and if driver & vehicle is available, then I will be responsible for any and all expenses that incur. If I do not return the bike to the Bike Check Out Area, I agree to pay for the replacement cost.

**I HAVE BEEN ISSUED A HELMET AND AGREE TO WEAR IT AT ALL TIMES WHILE BIKING.** \_\_\_\_\_(INITIALS)

**PLEASE COMPLETE ALL INFORMATION**

FIRST NAME										LAST NAME									
ADDRESS																			
CITY															STATE		ZIP		
HOME PHONE										DATE OF BIRTH					BEGINNING DATE OF ACTIVITY				

Has your address changed since your last visit to ACE/Wildwater/NARR?  Yes  No  
 Would you be interested in receiving an e-mail newsletter containing discounts and specials?  Yes  No

EMAIL ADDRESS																			
PERSON IN YOUR PARTY THAT MADE YOUR RESERVATION																			
FIRST NAME										LAST NAME									

**NAME AND PHONE NUMBER OF PERSON TO CONTACT IN CASE OF EMERGENCY**  
*(Please list someone not on the trip with you.)*

Name: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Relation: \_\_\_\_\_

If you found us on the web, what search term did you use to find us? \_\_\_\_\_

I agree to personally inspect my helmet, personal flotation device and paddle for any defects before leaving the base camp.

The above listed companies do not carry medical insurance.  
 I have read and agree to all the terms in this four (4) page contract.

\_\_\_\_\_  
*Signature of Participant (All participants, including minors, must sign here.)*

We, the parents or guardians, hereby certify that we have discussed the risks with our child and our child fully understands and comprehends ALL the risks.

\_\_\_\_\_  
*Signature of both parents if participant is less than 18 years of age.*