

# CONTRACT & LIABILITY WAIVER & INDEMNIFICATION AGREEMENT

## (Horse Riding Requires an Additional Waiver)

### (Caving Requires an Additional Waiver)

I am aware that during the river or mountain biking trip (and associated basecamp or other activities such as lodging, camping, kayaking, mud obstacle course, hiking, swimming, horse riding, climbing, canopy tours, caving, ropes course, paintball, 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 Center (and/or associated companies including but not limited to: Mountain Cove, Inc., Adventure Expeditions, Inc., Riverworks, Inc., Gauley Outdoor Center, Inc.), its 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 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 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 (ACE rarely carries medications),
- illnesses, or injuries 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 of 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 injury including blindness,
- equipment malfunction (paddles may break, rafts may come apart, etc.),
- frostbite or other cold related injuries,
- heat stroke, sunburn,
- briars & thorns,
- lightning,
- explosions (gas grills),
- fresh water amoeba infection

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.**

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

**In consideration of and as part payment** for the right to participate in such river and land activities and the services, food and alcoholic beverages, if any, arranged for me by American Canadian Expeditions, Ltd., its agents, employees, and associates, **I have and do hereby assume all of the above risks, and release, and will hold harmless, American Canadian Expeditions, Ltd.**, its 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 basecamp 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 American Canadian Expeditions, Ltd., its 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 involves a challenge containing a potential risk of injury or death.

I certify that I will not hold American Canadian Expeditions, Ltd., its 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 water **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 ACE, I agree to reimburse ACE 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 ACE Whitewater or its 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.

CHECK (✓) HERE

or IF NONE

- (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 outfitter's 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 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 cannot be held responsible for inaccurate information or the condition of the trails.
4. **All rented equipment will be returned at the specified time and checked back in. If I fail to return by the specified time I will be charged for the additional time. I agree to wash bike when I return. After proper return, collateral items will be charged or returned.**
5. For rental bikes, Ace 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 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										INIT.		LAST NAME									
ADDRESS																					
CITY															STATE			ZIP			
HOME PHONE					DATE OF BIRTH					DATE OF BEGINNING OF ACTIVITIES											
-					-					- 09											
					MONTH DAY YEAR					MONTH DAY YEAR											

Has your address changed since your last visit to ACE?     YES     NO  
 Would you be interested in receiving a E-mail newsletter containing discounts and specials?     YES     NO

MY E-MAIL ADDRESS IS:																					
@																					
<b>PERSON IN YOUR PARTY THAT MADE YOUR RESERVATIONS</b>																					
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 key word did you use to find us:** \_\_\_\_\_

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

**ACE does 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.**

\_\_\_\_\_  
**Signatures of Both Parents If Participant is Less than 18 Years of Age**