

## LIQUID DESCENT LLC

### RELEASE OF LIABILITY, ASSUMPTION OF RISK & INDEMNIFICATION AGREEMENT

#### **THIS IS A RELEASE OF LIABILITY AND A WAIVER OF LEGAL RIGHTS PLEASE READ CAREFULLY BEFORE SIGNING**

1. The person signing this document is voluntarily entering into this Agreement to release or “waive” liability; to acknowledge and assume risks inherent in the activities and services offered by **LIQUID DESCENT LLC** and to defend, indemnify and hold harmless **LIQUID DESCENT LLC** (and other Released Parties), from liability.

#### **2. Definitions.**

“Activities” mean rafting, boating, kayaking, paddling, fishing, swimming, wading, hiking, climbing on rocks and slopes, portaging and traveling to and from Activity site(s); use of equipment, facilities and premises of Released Parties; and all things related, ancillary or incidental to the Activities.

“Participant” means the person participating in the Activities.

“Released Parties” mean **LIQUID DESCENT LLC, CLEAR CREEK COUNTY, CITY OF IDAHO SPRINGS, GRAND COUNTY** and any of **THEIR** respective owners, agents, employees, contractors, guides, managers, representatives, predecessors and/or successors in interest, affiliated or associated organizations and companies, parent and sister companies, assignees, officers, directors, members, and shareholders. “Released Parties” also means the Released Parties’ insurance carriers.

“Undersigned” means the Participant when the Participant is age 18 or older OR it means both the Participant and the Participant’s parents or legal guardians when the Participant is under the age of 18.

#### **3. Risks of Activities.**

The Activities offered by **LIQUID DESCENT LLC** involve known and unknown, foreseeable and unforeseeable, inherent and incidental risks and dangers which could result in death, serious bodily injury, psychological injury, emotional distress, grief, property damage, economic damages, and possibly other injuries and damages not listed. The Undersigned acknowledges, understands and agrees that taking part in the Activities can be DANGEROUS AND INVOLVES THE RISK OF PHYSICAL AND PSYCHOLOGICAL INJURY AND/OR DEATH TO PARTICIPANT AND OTHERS.

Consequences from engaging in the Activities may include, but are not limited to: death, drowning, permanent injury, paralysis, traumatic brain injury, cardiac arrest, stroke, broken bones, torn ligaments, lacerations, bruising, anxiety, post-traumatic stress disorder, hypothermia, adverse reaction to cold water, dehydration, heat exhaustion, heat stroke, sunburn, injury or sickness from contact with animals, reptiles, insects or plants, foodborne illness, waterborne pathogens, contraction of viruses and/or illnesses (such as COVID) from contact with others, and other potential physical, psychological, mental or emotional injuries.

Injuries and death may occur as the result of Activities from circumstances too numerous to list. The Participant may slip or trip and fall; fall out of or be thrown from a boat or raft into the water; become entrapped in rocks, debris, “strainers” causing drowning or other injury; hidden underwater obstacles, trees or above water obstacles, coming into contact with equipment, rocks or terrain, unpredictable currents, holes, exposure, jumping or falling off rocks, carrying rafts and extreme physical exertion and exhaustion.

Contributing to or increasing the risks and dangers of the Activities include, but are not limited to: weather and water conditions; difficulties and challenges in rescue; being in remote locations; equipment failure or misuse; communication difficulties or failures; mental distress or panic from difficult or dangerous

situations; Participant's poor health or physical condition, or known or latent health conditions (including cardiac conditions); and misjudgment and underestimation of risks and abilities in comparison to water conditions and rapid classifications.

Contributing to or increasing the risks and dangers of the Activities may include poor decisions, mistakes or miscommunication of the Participant, other participants, or the Company, its managers, trip leaders, guides and other staff. The Participant, other participants, the Company, its owners, managers, trip leaders, guides and other staff may misjudge risks associated with weather, water and trip conditions. Company, its owners, managers, trip leaders, guides, and the Participant may misjudge or overestimate Participant's and other participants' abilities and risk tolerance both before and during Activities. The Participant or other participants may not fully understand description of Activities, instructions and warnings when given. The Participant and other participants may disregard instructions and warnings due to negligence, panic, not remembering, or not listening to the instructions and warnings when given. The Undersigned assumes the risk that Participant, other participants, the Company, and its owners, managers, trip leaders, guides and other staff may make mistakes that could cause, contribute or increase the risks and dangers of the Activities and releases the Released Parties from liability for such mistakes.

UNDERSIGNED ACKNOWLEDGES AND UNDERSTANDS THAT THE DESCRIPTIONS OF THE RISKS LISTED ABOVE ARE NOT COMPLETE AND THAT PARTICIPATING IN THE ACTIVITIES MAY INCLUDE OTHER KNOWN AND UNKNOWN RISKS.

**4. Release, Indemnification, and Assumption of Risk.** In consideration of the Participant being permitted to participate in the Activities, which is totally voluntary, Undersigned agrees as follows:

(a) Release. UNDERSIGNED IRREVOCABLY AND UNCONDITIONALLY RELEASES, FOREVER DISCHARGES, AND AGREES NOT TO SUE OR BRING ANY OTHER LEGAL ACTION AGAINST THE RELEASED PARTIES with respect to any and all claims and causes of action of any nature whether currently known or unknown, which the Undersigned have or which could be asserted on behalf of Undersigned in connection with Participant's participation in the Activities, including, but not limited to, claims of common law negligence, statutory negligence, negligence *per se*, negligent misrepresentation, and other tort claims, including premises liability, products liability, breach of warranty, breach of fiduciary duty, breach of local, state and federal laws, breach of contract and wrongful death.

(b) Assumption of Risk. Undersigned chooses participation in the Activities knowing and assuming that there are dangers and risks associated with the Activities (as noted above) and that DEATH AND/OR INJURIES may result from participating in the Activities. Undersigned acknowledges that DEATH AND/OR INJURIES may be caused or exacerbated by the mistakes, negligent acts, omissions, representations and carelessness of the Released Parties. Undersigned acknowledges that participation in the Activities is voluntary and that Undersigned or Participant can choose not to participate in the Activities or cease further participation in the Activities. If Undersigned has any doubt about participation in the Activities, Undersigned and/or Participant should not participate in the Activities.

Undersigned represents and affirms that Participant is physically and mentally capable of participating in the Activities, even though there is a possibility that Undersigned may underestimate or not know Participant's abilities and that the Participant may have physical or mental conditions that may increase chances of injuries or death. In signing this document, Undersigned recognizes and accepts that injuries and death are possible while or by participating in the Activities.

RECOGNIZING THE NATURE OF THE ACTIVITIES AND THE KNOWN AND UNKNOWN RISKS AND DANGERS OF THE ACTIVITIES, UNDERSIGNED VOLUNTARILY CHOOSES TO SIGN THIS AGREEMENT AND HAVE THE PARTICIPANT PARTICIPATE IN THE ACTIVITIES SUBJECT TO THIS AGREEMENT. UNDERSIGNED EXPRESSLY ACKNOWLEDGES AND ASSUMES ALL RISKS AND DANGERS OF PARTICIPATION IN THE ACTIVITIES.

(c) **Indemnification.** Undersigned agrees to indemnify, defend and hold harmless the Released Parties from and against any and all liability, expenses, costs, attorney's fees, property loss, medical bills, loss of income, liens, subrogation rights, and all other damages of any kind or nature whatsoever, and from any suits, claims or demands (including Undersigned's claims and any third party claims), including legal fees and costs whether or not in litigation, arising out of or related to Participant's participation in the Activities. If Undersigned brings an action, Undersigned will be in breach of this Agreement and Company has the right to seek and be awarded costs and reasonable attorneys' fees.

5. **Minor Acknowledgment.** In the case of a minor Participant, Undersigned parent or legal guardian acknowledges that they are not only signing this Agreement on their own behalf but on behalf of the minor and that the minor and any other parent or guardian shall be bound by all the terms of this Agreement. The Undersigned parent or legal guardian agrees that, but for the foregoing, the minor would not be permitted to participate in the Activities. By signing this Agreement without a parent or legal guardian's signature, Participant, under penalty of fraud, represents he/she is at least 18 years old. If signing as the parent or guardian of a minor Participant, the signing adult represents that he/she/they are the minor's legal parent or guardian. If Undersigned or the Participant misrepresents age or parental or guardian status, the Undersigned or Participant will be in breach of this Agreement and Company has the right to seek and be awarded costs and reasonable attorneys' fees, and the Agreement shall remain enforceable.

6. **Medical Care.** Undersigned authorizes the Released Parties and/or their authorized personnel to call for medical care for Participant or to transport Participant to a medical facility or hospital if, in the opinion of such personnel, medical attention is needed and it is possible to call for medical care for Participant or transport Participant to a medical facility or hospital. Undersigned agrees to pay all costs associated with such medical care and related transportation. If a Participant refuses medical care, or prevents Released Parties from obtaining treatment, Participant assumes all risks in refusing medical care.

7. **Acceptance of Responsibilities.** In consideration of the Participant being permitted to participate in the Activities, Undersigned and Participant agree to follow and abide by all instructions given by the Company, trip leaders and guides. Participant agrees not to be under the influence of alcohol or drugs which may impair their judgment or abilities while participating in the Activities. Undersigned and Participant agree to conduct their own research, inform themselves of the risks and dangers of the Activities and of a particular trip before participating in the Activities, and to ensure they have the abilities and are in a physical and emotional condition to safely participate in the Activities. The Participant is ultimately responsible for the Participant's own decisions, actions and safety. If the Undersigned or the Participant does not follow and abide by all instructions given by the Company, trip leaders and guides, Undersigned shall be in breach of this Agreement and Company has the right to seek and be awarded costs and reasonable attorneys' fees, including costs and fees in the defense on an action brought by or on behalf of Undersigned or Participant.

8. **Limitation on Damages.** In the event the Agreement or one of its provisions is found by a court of law to be unenforceable for any reason, Undersigned agrees to a total limitation of damages in the amount of the greater of: (a) three hundred thousand (\$300,000); or (b) the minimum insurance required of outfitters under the law at the time of any alleged incident. Undersigned agrees to this limitation on damages in any lawsuit and acknowledges that this is not an exculpatory provision, but a reasonable limitation on damages. In any suit to enforce this Agreement, the Company is similarly subject to the same limitation on damages if it successfully brings an action for breach of the Agreement.

9. **Miscellaneous.** Undersigned further agrees and understands: (a) Participant will not engage in any activities prohibited by any applicable laws, statutes, regulations and ordinances; (b) this Agreement shall be governed by the laws of the State of Colorado, and the exclusive jurisdiction for any claim shall be the District Court of **CLEAR CREEK** County Colorado, **GRAND** County Colorado or federal court of Colorado; (c) THIS AGREEMENT CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE PARTIES HERETO AND SUPERSEDES ANY AND ALL PRIOR CONTRACTS, ARRANGEMENTS, COMMUNICATIONS, OR REPRESENTATIONS, WHETHER ORAL OR WRITTEN, BETWEEN THE PARTIES RELATING TO THE SUBJECT MATTER HEREOF INCLUDING BUT NOT LIMITED TO ANY OTHER REPRESENTATIONS ABOUT THE ACTIVITIES OR SAFETY OF THE ACTIVITIES; (d)

