

RECREATIONAL ACTIVITY RELEASE OF LIABILITY, WAIVER OF CLAIMS, EXPRESS ASSUMPTION OF RISK AND INDEMNITY AGREEMENT



PARTICIPANT’S NAME: _____

Notice – By signing this document you may be waiving certain legal rights, including the right to sue.

Release and Waiver of Claims; Indemnification Agreement

I do hereby affirm and acknowledge that I have been fully informed of the inherent hazards and risks associated with the recreational activities, generally described as Paintball/Laser Tag/Airsoft, Zip Lines, Obstacle Race, and Wilderness Challenge Course; including the rental of equipment and transportation associated therewith of which I am about to engage in. Inherent hazards and risks include but are not limited to:

1. Risk of injury from the activity and equipment utilized is significant including the potential for permanent disability and death.
2. Possible equipment failure and/or malfunction of my own or others’ equipment.
3. This activity takes place outdoors and therefore includes risks associated with exposure to elements, excessive heat, hypothermia, impact of the body upon the water, injection of water in my body orifices, encountering objects either natural or man-made, exposure to animals with the attendant risk of kicking, biting, shying away, running off, or otherwise moving in an unanticipated manner causing injury and/or death.
4. My own negligence and/or the negligence of others, including but not limited to operator error and guide decision making including misjudging terrain, rapids, weather, trails or route location.
5. Attack by or encounter with insects, reptiles, and/or animals.
6. Accidents or illness occurring in remote places where there are no available medical facilities.
7. Fatigue, chill, and/or dizziness, which may diminish my/our reaction time and increase the risk of accident.

I understand the description of these risks is not complete and that unknown or unanticipated risks may result in injury, illness, or death.

In consideration of being allowed to use the facilities and participate in **Activities and Adventure** programs and events at **DFW Adventure Park, Inc.** (the “Host”), the Participant, and the Participant’s parent(s) or legal guardian(s) if the Participant is a minor, do hereby agree, to the fullest extent permitted by law, as follows:

- 1) **TO WAIVE ALL CLAIMS** that they have or may have against the Host arising out of the Participant’s participation in the Programs or the use of any equipment provided by the Host. The Participant and his/her Parents or legal guardian(s) specifically understand that they are releasing any and all claims that arise or may arise from any **negligent** acts or conduct of the Host, its owners, affiliates, operators, employees, agents, and officers, to the fullest extent permitted by law. However, nothing in this Agreement shall be construed as a release for conduct that is found to constitute gross negligence or intentional conduct;
- 2) **TO ASSUME ALL RISKS** of participating in the Programs and using the Equipment, even those caused by the **negligent** acts or conduct of the Host, its owners, affiliates, operators, employees, agents, and officers. The Participant and his/her Parents or legal guardian(s) understand that there are inherent risks of participating in the Programs and using the Equipment, which may be both foreseen and unforeseen and include serious physical injury and death;
- 3) **TO RELEASE** the Host, its owners, affiliates, operators, employees, agents, and officers from all liability for any loss, damage, injury, death, or expense that the Participant (or his/her next of kin) may suffer, arising out of his/her participation in the Programs and use of the Equipment, including while receiving instruction and/or training; and
- 4) **TO INDEMNIFY** the Host, its owners, affiliates, operators, employees, agents, and/or officers, from all liability for any loss, damage, injury, death, or expense that the Participant (or his/her next of kin) may suffer, arising out of participation in Programs and use of the Equipment.

Arbitration

The Participant, and the Participant’s parent(s) or legal guardian(s), if Participant is a minor, hereby agrees to submit any dispute arising from participation in the Programs, for which Participant intends to seek damages in excess of \$75,000.00, to binding arbitration. Submission shall be unlimited. For such disputes, there shall be a three-member arbitration panel, consisting of two party-appointed arbitrators (one arbitrator to be appointed by each party) and one neutral arbitrator (collectively, the “Panel”), to be chosen by the party-appointed arbitrators. The neutral arbitrator shall be an officer or director of any entity that operates a similar business, i.e., challenge course, zip-line course, etc, in the United States. In the event that the two party-appointed arbitrators are not able to agree on a third, neutral arbitrator, the neutral arbitrator shall be appointed by the United States District Court, for the District of Texas, utilizing the selection criteria for the neutral as set forth above. Each party shall pay its own costs, including the costs associated with the party-appointed arbitrators, and the parties shall share equally the costs associated with the neutral arbitrator. The arbitration proceeding shall proceed in the county and state in which the Programs occurred and shall be governed by the Federal Rules of Evidence. The Panel shall establish a reasonable and appropriate discovery schedule to expeditiously resolve this matter. In the event that Participant, or the Participant’s parent(s) or legal guardian(s), if Participant is a minor, files a lawsuit in any court relating to, and/or arising from, Participant’s participation in the Programs, Participant and/or Participant’s parent(s) or legal guardian(s), by signing this document, stipulate to a cap on Participant’s damages of \$75,000.00, exclusive of interest and costs. As a threshold matter, the Panel, or the Court (if a lawsuit is filed), shall confirm whether the Waiver and Release contained in this Agreement are enforceable under applicable law.

Photography/Videography Release

Participant hereby grants to the Host, its representatives, and employees the right to take **photographs and video of Participant** in connection with Participant’s participation in the Programs. Participant hereby authorizes the Host to copyright, use, and publish the same in print and/or electronically. Participant hereby agrees that the Host may use such photographs and video of Participant for any lawful purpose, including but not limited to publicity, illustration, advertising, and Web content.

Personal Responsibility

The Participant certifies that he/she has no physical or mental condition that precludes him/her from participating in the Activities or Programs and that he/she is not participating against medical advice.

The Participant understands that his/her participation in the Activities or Programs is voluntary and further understands that he/she has the opportunity to inspect the Host’s equipment and location before any participation.

The Participant understands that he/she is obligated to follow the rules of the Activities or Programs and that he/she can minimize his/her risk of injury by doing so and through the exercise of *common sense* and by being aware of his/her surroundings.

If, while participating in the Activity or Programs, the Participant observes any unusual hazard, which he/she believes jeopardizes his/her personal safety or that of others, he/she will remove himself/herself from participation in the Activity or Program and immediately bring said hazard to the attention of the Host.

I, _____ (parent/legal guardian), hereby agree that I will explain to my child that the risk of injury while participating in the Activities or Programs can be reduced by following the rules and through the use of *common sense* and *good judgment*.

To the extent that any portion of this Agreement is deemed to be invalid under the law of the applicable jurisdiction, the remaining portions of the Agreement shall remain binding and available for use by the Host and its counsel in any proceeding.

I HAVE READ AND UNDERSTAND THIS AGREEMENT AND I AM AWARE THAT BY SIGNING THIS AGREEMENT I MAY BE WAIVING CERTAIN LEGAL RIGHTS, INCLUDING THE RIGHT TO SUE. Initial here: (_____)

Parents or Guardians must sign if the Participant is UNDER 18.

Participant’s Signature: _____

Date: _____

OR:

Parent/Guardian Signature: _____

Date: _____