

# Kayak Instruction, Inc.

[PART I]

IMPORTANT. READ CAREFULLY. This document affects your legal rights. It must be signed by you, the "Participant", whether you are an adult or minor, if you are renting or otherwise using equipment or participating in activities offered by Kayak Instruction, Inc. (referred to in this document as "Provider"). It must be signed also by your parent or guardian if you are a minor Participant (under 21 years of age.) The parent or guardian agrees to these terms individually and on behalf of the minor. Only a parent or legally appointed guardian may sign for a minor Participant. References in this agreement to "I" or "we" include all who sign below unless otherwise clearly indicated.

## PARTICIPANT AGREEMENT

(Including Acknowledgment and Assumption of Risks.  
Agreements of Release and Indemnity, and Additional Provisions)

In consideration of the opportunity to rent or otherwise use certain equipment and/or participate in activities offered by Provider, Participant (adult or minor), and the parent or guardian of a minor Participant, understand, acknowledge and agree as follows:

[PART II] Activities, Hazards and Risks

The services of Provider may include renting equipment and providing trips (including guided trips) by raft, tube, canoe or kayak (referred to, collectively, as watercraft). Activities, scheduled and unscheduled, associated with these services may include, in addition to travel by water, swimming, wading, hiking, climbing on rocks and slopes, camping, portaging (carrying the watercraft between water travel sites) and travel to and from the activities.

The hazards and risks (together referred to as "risks" of the use of the watercraft include the following: entering, exiting and operating the watercraft: water which may be fast, deep, cold, and subject to rapid change: objects which may be encountered in and out of the water, and which may not be obvious, including debris, trees, rocks, boulders, dams, bridges, and other hazards: the watercraft may overturn, swamp and sink and occupants may become separated from the craft; feet and other parts of the body may become entrapped in or under rocks and other objects; participants may strike or be struck by objects, other watercraft, and other persons, in and outside of the watercraft. Risks of other activities include those associated with camping, hiking and moving on and over terrain, including the shoreline, the premises of Provider and others, and elsewhere, which may be unstable, steep and slippery and where rocks, trees, and other objects may fall, and man-made and natural structures may fail; animals, including poisonous reptiles, and poisonous plants may cause harm; swimming in unfamiliar surroundings may cause entrapment, injury from slips and falls and drowning. Other risks include errors in judgment of Provider's staff and other participants, including the improper assessment of capabilities and conditions pertaining to the activities; certain activities may be instructional, and designed to extend the skills of participants; equipment may be misused or fail because of manufacturing defects or otherwise; collisions may occur while traveling by vehicle to and from the activities; the activities are subject to the unpredictable forces of nature, including exposure to the sun, cold, wind, hail, lightning, flash floods and other such phenomena; activities may take place in remote places, significantly delaying emergency medical care and evacuation.

Participant, and the parent or guardian of a minor Participant, acknowledge and understand that the description of activities and risks above is not complete and that all activities, whether or not described, may be dangerous and may include risks which are inherent and cannot be reasonably avoided without changing the nature of the activity, Participation in the activities can cause bites, stings, allergic reactions, overexertion, heat stroke, hypothermia, illness due to contaminated water, burns, cuts, bruises, strains, broken bones, and other injuries and illnesses. Property loss, and serious injury and death, including by falling and drowning are possible.

Provider has made no effort to determine, and accepts no responsibility for, medical, physical or other qualifications or the suitability of Participant, or other participants, for the activities. Client, and the parent or guardian of a minor Participant, accepts full responsibility for determining Participant's medical, physical or other qualifications or suitability for participating in the activities. Provider is not responsible for the water conditions, routes, campsites, or other activities of renters of its equipment. Certain activities may be conducted by independent contractors hired by Provider. These contractors are not trained or supervised by Provider and Provider has no control over them and accepts no responsibility for their conduct. **Participant will not use alcohol and other substances that may, impair judgment and reduce a participant's ability to effectively manage the risks of water travel, camping and land activities;** participants should inspect unfamiliar rapids and other hazards before attempting to pass through or over them; participants should always wear a fastened life jacket (personal floatation device); participants should wear footwear which

will provide protection from sharp objects, and which will minimize the risk of foot entrapment. Failure to adhere to these and other safety precautions may result in serious injury or death.

[PART III] Acknowledgment and Assumption of Risks

I, the Participant (adult or minor) and the parent or guardian of a minor Participant, understand the nature of the services of Provider and other activities which may occur, and their risks. I acknowledge and expressly assume all risks of the activities, whether or not described above, known or unknown, and inherent or otherwise. I take full responsibility for any injury or loss, including death, which I, or a minor child for whom I sign, may suffer, arising in whole or part out of such activities.

[PART IV] Agreements of Release and Indemnification, and Additional Provisions

If I am an adult participant, or the parent or guardian of a minor Participant, I agree, for myself and on behalf of the minor Participant for whom I am signing, as follows:

I release Provider, its employees, contractors, volunteers, directors and owners (“Related Parties”) from any and all claims of injury or loss which I, or the minor child for whom I sign, may suffer, arising out of or in any way related to my, or the child’s, enrollment in or participation in the activities of Provider or the use of its equipment. Neither I, the minor child, nor anyone acting on our behalf, will bring suit or otherwise assert any such claims against a Related Party.

I will indemnify (that is, defend and satisfy by payment or reimbursement, including costs and attorneys’ fees) each Related Party from any claim of liability, including one brought by or for a minor child for whom I sign, a co-participant in any of the activities of Provider, a rescuer, a member of my, or the minor child’s, family, or anyone else, asserting a loss arising out of or in any way related to my, or the child’s enrollment in or participation in the activities of Provider or the use of its equipment.

THE AGREEMENTS OF RELEASE AND INDEMNIFICATION ABOVE INCLUDE CLAIMS ARISING IN WHOLE OR IN PART FROM NEGLIGENT (BUT NOT GROSSLY NEGLIGENT, RECKLESS OR INTENTIONALLY WRONG) ACTS OR OMISSIONS OF RELATED PARTIES OR ANY OF THEM, AND ALL OTHER CLAIMS, INCLUDING FOR PERSONAL INJURY, WRONGFULL DEATH, PROPERTY DAMAGE, PRODUCTS LIABILITY (INCLUDING STRICT LIABILITY), BREACH OF CONTRACT OR WARRANTY, OR OTHERWISE. THE AGREEMENTS ARE INTENDED TO BE ENFORCED TO THE FULLEST EXTENT ALLOWED BY LAW, AND TO BE BINDING ON ME AS PARTICIPANT AND ON ME AS PARENT OR GUARDIAN OF A MINOR PARTICIPANT, INDIVIDUALLY AND ON BEHALF OF THE MINOR FOR WHOM I SIGN.

[PART V] Additional Provisions

I authorize Provider to provide or obtain for me, or the minor child for whom I sign, such medical care as it considers necessary and appropriate, and I agree to pay all costs associated with such care and related transportation. Any dispute between Provider and me or the minor child for whom I sign will be governed by the substantive laws of the State of Texas (not including laws which might apply the laws of another jurisdiction). and any mediation or suit shall take place only in that State, in the County of Dallas. If the dispute cannot be resolved by mutual agreement, I agree to submit it to a mediator recognized by the Courts of that State and County. I agree to pay all costs and attorneys’ fees incurred by Provider in defending a claim or suit brought by me or by or on behalf of the minor for whom I sign, if the claim or suit is withdrawn or to the extent a court or mediator determines that Provider is not responsible for the claimed injury or loss.

[PART VI]

This agreement is entered into voluntarily and after careful consideration. Its terms cannot be amended except in writing. I understand that it is binding, to the fullest extent allowed by law, upon all persons signing below, our respective heirs, executors, administrators, wards, minor children (whether or not they are Clients) and other family members. If any part of this agreement is found by a court or other appropriate authority to be invalid, the remainder of the agreement nevertheless shall be in full force and effect.

\_\_\_\_\_  
Participant (adult or minor)

\_\_\_\_\_  
Parent or Guardian

Date: \_\_\_\_\_

Date: \_\_\_\_\_