

BACKCOUNTRY BABES: ACKNOWLEDGMENT AND ASSUMPTION OF RISKS & RELEASE AND INDEMNITY AGREEMENT

For Participant and Parent or Legal Guardian of Minor Participant

INTRODUCTION: Please read this entire Acknowledgment and Assumption of Risks & Release and Indemnity Agreement (hereafter, “Document”) carefully before signing. The participant must sign this Document. If the participant is a minor (minors are those under 18 yrs. of age in California; hereafter sometimes “minor” or “child”), one of the participant’s parents or legal guardians (collectively referred to in this Document as “parent”) must also sign. In consideration of the services of Constellation Outdoor Education, LLC, doing business as Backcountry Babes, and its owners, members, managers, officers, directors, employees, agents, representatives, medical advisors, volunteers and independent contractors (including all instructors and guides) and all other individuals or entities affiliated with it, (individually and collectively referred to in this Document as “Backcountry Babes”), in allowing participant to participate, I (participant and parent of a minor participant) **acknowledge and agree as follows:**

ACTIVITIES ON FEDERAL LANDS: Some federal land agencies may have restrictions, such as prohibiting service providers from seeking releases of liability for their own negligence when operating under permit on those federal lands. To the extent a court or arbitrator determines that these federal restrictions prohibit me from agreeing to any clause below as a matter of law, that clause will not be enforced.

ACTIVITIES, RISKS AND ACKNOWLEDGMENT AND ASSUMPTION OF RISKS:

Participating (whether attending, observing, or actively participating) in Backcountry Babes educational, instructional, recreation and/or adventure activities includes risks. These activities take place in the U.S. and in international locations, may be led or conducted by Backcountry Babes contracted or other staff (hereafter “staff” or “Backcountry Babes staff”) or others and may include, but are not limited to: camping; outdoor cooking; hiking or backpacking; peak ascents; American Institute for Avalanche Research and Education (AIARE) course instruction (including avalanche recognition, search and rescue and associated instruction and training) and other general outdoor education; backcountry or frontcountry skiing, snowshoeing, ski mountaineering and other winter activities; mountain or road bicycling; rafting, kayaking and other boating; swimming, wading and stream crossings; sports and games; socializing; use of any equipment, facilities or premises including use of mountain hut systems; constructing and using outdoor igloos; and travel via skis, splitboards, snowshoes or other means, and in vans, buses or other vehicles to and from activities or otherwise (collectively referred to in this Document as “activities”). These activities may be scheduled or unscheduled, supervised or unsupervised, and include activities undertaken during participant’s free and/or independent time. **I acknowledge that the inherent and other risks, hazards and dangers (collectively referred to in this Document as “risks”) of these activities can cause injury, property damage, death or other loss to participant or others.** The parent of a minor gives permission for their child to participate in all activities and agrees to discuss the nature of these activities and risks with their child. **The following describes some, but not all of the inherent risks:**

Risks present in an outdoor environment. These risks include travel in high-altitude (up to or above 14,000 feet), mountainous and wilderness terrain, both on and off trail, including at ski areas. Participants’ travel may be subject to storms, including rain, lightning, strong winds – including white-outs, snow or ice; extremely hot, humid or cold weather or water and rapid and unpredictable weather changes; flash floods; mud, snow or rock slides, including avalanches; fast moving rivers or other water bodies, including currents and whitewater; steep, exposed and rugged terrain; falling rocks, ice or snow chunks; boulder fields; falling or fallen timber; stinging, venomous and/or disease carrying animals, insects or microorganisms; poisonous plants; close and unpredictable contact with wild or domestic animals and other natural or man-made hazards. Hazards (both on land and above and below water level) may not be marked or visible and weather is always unpredictable.

Risks involved in judgment and decision making. Staff or others, including participants, must make various judgments and decisions in a variety of environments that are, by their nature, imprecise and subject to error. These risks include the risk that the participant or a co-participant, staff member, contractor or other person may misjudge the participant’s (or other’s) capabilities, health or physical condition, or misjudge some aspect of travel, instruction, medical treatment, weather, terrain or water conditions or route location.

Risks associated with U.S. or foreign travel. Travel can involve unique risks, such as political unrest, terrorism, contact with unusual diseases, exposure to contaminated food or water, dangerous road or travel conditions, thievery, abduction and other risks. Participants may be subject to laws and legal systems in foreign countries that do not provide the same protections as the U.S. legal system. **NOTE:** Although Backcountry Babes staff consider current geo-political climates in choosing program locations, staff are not experts in assessing the likelihood of terrorist activity, political unrest, the need for vaccinations or other issues. Participant (and the parent of a minor) is responsible for conducting his or her own independent investigation through the U.S. State Department, U.S. Centers for Disease Control, World Health Organization or other sources.

Personal health and participation risks. The participant’s mental, physical or emotional condition (including use or abuse of alcohol or any prescription or non-prescription drugs), disclosed or undisclosed, known or unknown, combined with participation in these activities includes risks. Although Backcountry Babes will review participant’s submitted health information, Backcountry Babes cannot anticipate or eliminate risks or complications posed by participant’s mental, physical (including fitness level) or emotional condition.

Risks associated with any outdoor or physical activity. These risks include that a participant may overestimate his or her abilities or fitness; be inattentive; lose control and trip or fall and/or collide with others, the ground, or encounter other hazards; not understand the functioning of (or misuse) the equipment; fail to negotiate steep, uneven or difficult terrain; not control his or her speed or experience equipment malfunction.

Risks connected with geographic location. Activities may take place in remote locations, several hours or up to a day from medical facilities, causing potential delays or difficulties in communication, transportation, evacuation and medical care. Staff or others may or may not have access to wireless communication devices (including cell or SAT phones); nevertheless, use of these devices in any location is unreliable and inconsistent.

Equipment risks. These risks include the risk that equipment used in an activity may be misused, may not fit, or may break, fail or malfunction. This includes participant’s personal equipment, Backcountry Babes’ equipment or other equipment (whether purchased, borrowed or rented). Participant assumes full responsibility, along with the parent of a minor, for choosing appropriate personal equipment, and for the fit and condition of their equipment. Backcountry Babes staff or its contractors may recommend or require safety equipment for some activities. Safety gear may prevent or lessen injuries in some instances; however, use of this gear is not a guarantee of safety, and injury can occur even with the use of this gear.

Risks associated with cooking, camping and travel. While camping or traveling, participants may tend to, cook over or be near a campfire, or a gas or propane stove and are subject to the risk of gas explosion, scalding or other burns. Contaminated water is a risk in outdoor settings. Camp sites may be subject to falling trees and/or branches, floods, wildlife disturbances, and other hazards.

Free time risks. Participants will have free and/or independent, unsupervised time before, during or after activities and at other times.

Risks regarding conduct. These risks include the risk that the participant, or other participants or third parties may act carelessly or recklessly.

The inherent risks – and any other risks - may result in participants: falling partway or falling to the ground or into the water (including off of a cliff or steep edge); being struck by, colliding with or impacting objects, people, or the bottom of a water body; being submerged under (in an avalanche or otherwise) snow, ice or debris; experiencing vehicle or boat collision, capsize or rollover; reacting to high altitudes, weather conditions or increased exertion; becoming lost or disoriented; suffering gastro-intestinal complications or allergic reactions or experiencing other problems. These and other circumstances may cause heat or cold related illnesses or conditions (including hypothermia, hyperthermia, cold water immersion, frostbite or heat exhaustion/stroke), dehydration, hyponatremia, drowning, suffocation, high altitude sickness (i.e. High Altitude Pulmonary or Cerebral Edema), heart or lung complications, broken bones, paralysis or other permanent disability, mental or emotional trauma, concussions, sunburn or other burns, infections, illnesses (including contracting animal/insect borne or contagious diseases), cuts, wounds or other injury, damage, death or loss.

I (participant and parent of a minor participant) further agree:

- to review all materials received, complete all required forms, abide by the terms of those documents, and obey all rules and other policies;
- Backcountry Babes staff or contractors are available should I have further questions about the activities, the associated risks or other issues;
- to disclose any mental, physical or emotional condition/s or limitation/s which might affect participant's ability to participate, and represent that participant is fully capable of participating without causing harm to him/herself or others;
- the information provided above or otherwise is not complete, other unknown or unanticipated activities, risks and outcomes may exist, and Backcountry Babes cannot assure participant's safety or eliminate any of these risks; at all times, participants share in the responsibility for their own well-being and the well-being of the group;
- **if participant is borrowing, renting or purchasing new or used equipment from Backcountry Babes, the equipment comes "AS-IS," and Backcountry Babes disclaims all warranties, express or implied (including any conditions of merchantability or fitness for a particular purpose) with regard to the equipment;**
- Backcountry Babes contracts with individuals/organizations that are independent contractors (not their employees or agents) to provide many of the services and activities participants will engage in. Backcountry Babes does not supervise or control these contractors and is not legally liable or responsible for their conduct;
- **Participant is voluntarily participating with knowledge of the risks. Therefore, participant (and parent of a minor) fully and expressly assume and accept the inherent and other risks (known and unknown, described above or otherwise) of the activities, and the risk of any injury, damage, death or other loss suffered by participant (and parent) resulting from those risks, including the risk of participant's own negligence or other misconduct.**

RELEASE & INDEMNITY AGREEMENT:

Please read carefully. This Release and Indemnity Agreement contains a surrender of certain legal rights. I (adult participant, or parent for myself and for and on behalf of my participating minor child) agree:

1) to release and agree not to sue Backcountry Babes with respect to any and all claims, liabilities, suits or expenses (including attorneys' fees and costs) (hereafter "claim" or "claim/s"), for any injury, damage, death or other loss in any way connected with my/my child's enrollment or participation in the activities. **I understand I agree here to waive all claim/s I or my child may have against Backcountry Babes, and agree that neither I, my child, nor anyone acting on my or my child's behalf, will make a claim against Backcountry Babes as a result of any injury, damage, death or other loss suffered by me or my child;**

2) to defend and indemnify ("indemnify" meaning protect by reimbursement or payment) **Backcountry Babes**, with respect to any and all claim/s brought by or on behalf of me, my participating child, spouse or other family member/s, a co-participant or any other person for any injury, damage, death or other loss in any way connected with my/my child's enrollment or participation in the activities. This includes any and all claim/s which may be presented by a medical care provider, insurer, or other third party as a result of medical care provided to the participant, including transportation and evacuation costs.

This Release and Indemnity Agreement includes claim/s of or resulting from Backcountry Babes' negligence (but not its gross negligence), and includes claim/s for personal injury (including but not limited to claim/s related to emergency, medical, drug and/or health issues, response, assessment or treatment), property damage, breach of contract or any other claim.

OTHER PROVISIONS:

I (participant and parent of a minor participant) agree:

- California substantive law (without regard to its "conflict of laws" rules) governs this Document, any dispute I/my child have with Backcountry Babes and all other aspects of my/my child's relationship with Backcountry Babes, contractual or otherwise, and agree that any suit or other proceeding must be filed or entered into only in the U.S. District Court for the Northern District of California (Oakland Division) or in the Superior Court of California, Alameda County. I agree to attempt to settle any dispute (not settled by discussion) through mediation before a mutually acceptable California mediator;
- I authorize Backcountry Babes staff or other medical personnel to obtain or provide medical care for me/my child, to transport me/my child to a medical facility, and/or to provide treatment they consider necessary for my/my child's health. I agree to the release (to or by Backcountry Babes) of any records necessary for treatment, referral, billing or insurance purposes. I agree that Backcountry Babes has no responsibility for medical care provided to participant, and agree to pay all costs associated with that care and transportation, including medical and/or evacuation costs.
- Backcountry Babes reserves the right to dismiss any participant if a staff member believes, in his/her sole discretion, that participant presents a safety concern or medical risk, is disruptive or otherwise conducts him or herself in a manner detrimental to the activities. If participant is dismissed or departs for any reason, the participant (and parent of a minor) are responsible for all costs of this early departure;

