

AGREEMENT TO ASSUME ALL RISKS; RELEASE OF LIABILITY/ AGREEMENT NOT TO SUE & TO INDEMNIFY

Please read this contract carefully.

It releases DROWSY WATER RANCH, INC. from liability and waives certain rights.

In consideration of being permitted to participate in an outdoor recreation experience provided by DROWSY WATER RANCH, INC., d/b/a Drowsy Water Ranch (“Drowsy Water Ranch”) I, the Participant, (or if the Participant is under the age of 18, I, on the Participant’s behalf) understand, acknowledge, and contractually agree as set forth below (the Agreement):

1. Acknowledgement of Dangers and Risks: I understand, acknowledge, and agree that participating in a zipline activity in an outdoor environment, which experience may include ziplines, hiking, and related transportation including Humvee rides (hereinafter the “Activity”) can be **HAZARDOUS AND INVOLVE THE RISK OF PHYSICAL INJURY AND/OR DEATH**. I understand, acknowledge, and agree that participating in the Activity involves certain inherent dangers and risks that cannot be eliminated or controlled by Drowsy Water Ranch, the presence of which are integral to the adventurous nature of the Activity. I understand and agree that the following list of inherent dangers and risks that could cause physical or emotional injury or death is not exhaustive – there are many other dangers or risks associated with the Activity not listed below: **a) Risks associated with ziplines and hiking**, including: exposure to heights; exposure to falls; dizziness and/or vertigo; striking or otherwise coming into injurious contact with manmade or natural objects or obstacles; injurious contact with landing areas; collisions with trees; collisions with other participants; equipment malfunction or failure including failure of connection devices, belay devices, braking devices, and lowering devices; failure by Participant or others to follow instructions or use equipment as instructed; loose rock or other unstable terrain; falling rock or other manmade or natural objects; unsafe speed of travel for conditions or experience; pinching or tearing of limbs and digits; injury to hands and fingers; rope, webbing, or cable burns; rashes and abrasions from harnesses and helmets; severed rope, webbing, or cable due to falling objects or malfunction; lack of or inadequate shelter; falling from great height; errors in staff judgment and/or lapse in staff skill; slipping, tripping, or falling; getting lost; trail obstructions and other unmarked or obscured hazards in the outdoor environment; variations in terrain; rough or unmaintained trail; wet or slippery trails or platforms; exposure to steep terrain; difficulty with route finding; injury resulting from jumping from heights; injury caused by inadequate footwear; injury caused by aiding other participants; **b) Risks associated with transport in a motor vehicle and Humvee rides**, including: all commonly understood risks of riding in a vehicle; risks associated with riding in a vehicle in remote terrain on backcountry, unmaintained, or 4-wheel drive roads; jarring and bouncing; ejection from a vehicle; overturning of a vehicle; burns; falling out of a vehicle; unmaintained and hazardous trails and/or roads; exposure to loud noise; inhalation of exhaust fumes; dangerous water crossings; falling into unfamiliar water with submerged hazards; and errors in driver judgement and/or lapse in driver skill; **c) Risks associated with participating in the Activity, and outdoor Activity in general, with other participants, and relying upon guides or staff**, including: exposure to dangerous wildlife and insects or domestic animals, including dog bites or scratches, bee or wasp stings and tick or mosquito bites; exposure to potentially poisonous plants; falling trees or limbs; flash flood; temperature fluctuations; extreme or partial darkness; wind; fog; rain; sleet; hail; storms and lightning; tornados; landslides; earthquakes; rock-fall; mudslides; wildfire; exposure to allergens, including food allergens; mental or physical shock; burns or burning associated with hot surfaces and sun exposure; the discharge of weapons in the area of Activity; mentally or physically unstable or criminal participants or others; intoxicated Activity participants; negligence by Activity participants; all manner of outdoor injuries including brain injury, spinal injury including neck injuries and whiplash, joint injury, broken bones, burns, internal injury, sickness or disease; fatigue; exposure to food-borne, water-borne, vector-borne, or airborne bacteria, virus, or pathogens; exacerbation of Participant’s own health condition(s); sunburn, heatstroke, dehydration, hyponatremia; hypothermia; errors in staff judgment and/or lapse in staff skill; getting lost; lack of access to immediate medical care due to remote location; inadequate or incorrect medical care; poorly executed or failed rescue attempts; dangerous contact with rescue vehicles, or aircraft; failure or lack of communication equipment; inadequate or malfunctioning equipment; and mental, physical, or emotional injury or distress from exposure to any of the above. I understand that Drowsy Water Ranch has done its best to list the known risks of participating in the Activity, and I agree that I have the right, obligation, and opportunity to research and verify the risks of participating in the Activity.

2. Acknowledgement of Limitations of Equipment: I acknowledge and agree that any and all equipment provided by Drowsy Water Ranch may malfunction, fail, not fit properly, or otherwise not function as intended. I agree that I will use the equipment only as instructed. I agree that if I do not understand how to use/operate the equipment utilized for the Activity, I will request instruction. I acknowledge and agree that a) Drowsy Water Ranch explicitly requires that I wear a helmet to participate in zipline tours and other certain activities; and b) although equipment may be provided, this equipment is no guarantee of my safety, and such equipment may not protect me from all injuries, including the types of injuries the equipment was designed to prevent. I understand and agree that wearing a helmet may not protect me from serious injury or death.

3. Assumption of Risk: I acknowledge and agree that I am choosing to take part in the Activity despite the dangers and risks of doing so, and I freely choose to accept the inherent risks of participating in the Activity. I recognize that death, physical, mental, or emotional injury, and property damage or loss, are all possible while participating in the Activity. I expressly acknowledge and assume all risks, dangers, and consequences of the Activity, including but not limited to those inherent risks, dangers, and consequences set forth in paragraph 1 above, that may result in physical, mental, or emotional injury, or death and/or property damage or loss.

Initials: _____

4. Participant's Responsibilities and Representations: I represent that I am physically and mentally capable of participating in the Activity. I understand the importance of all safety instructions given to me, whether in writing, verbally, or in videos, and I agree to follow all staff instructions at all times while engaging in the Activity. I ~~have~~ understand and agree to follow all rules, and I certify that I meet all requirements for participation in the Activity. Further, I represent that I have had the opportunity to both independently research and discuss with Drowsy Water Ranch the risks of participating in the Activity and my assumption of those risks. I have been informed of and understand the expectations of me while engaging in the Activity. I agree that it is my responsibility to use the equipment only as instructed by Drowsy Water Ranch staff and that if I perceive that my equipment is not working properly, I will immediately stop using the equipment and will immediately alert Drowsy Water Ranch staff. I agree that I will not alter, attempt to repair, or make any adjustments to my equipment and that all adjustments will be made only by or with the assistance of staff. I agree that I will not intentionally flip myself over or invert myself while on the zipline. I agree to stay on designated pathways. I acknowledge that, if I consume drugs or alcohol, I will bear sole responsibility for myself and for any damages I may cause to Drowsy Water Ranch, its property, or to other participants, and I may be removed from participation in any Activity. I agree that Drowsy Water Ranch reserves the right to remove Participant from engaging in the Activity if it deems, in its sole discretion, that such removal is appropriate and necessary. I understand that I am responsible for notifying Drowsy Water Ranch of any risk to me or other participants associated with my own mental or physical conditions, including allergies that could result in anaphylaxis. I specifically and expressly agree that I have full responsibility for managing and treating any such conditions to prevent injury to myself or others. I am not relying on any prior oral, written, or visual representations made by Drowsy Water Ranch, including in any website or promotional materials, to induce me to participate in the Activity. With all of the foregoing in mind, I assume full responsibility for my own safety.

5. Release of Liability and Agreement Not to Sue: Fully understanding the foregoing paragraphs, and in exchange for Drowsy Water Ranch's agreement to allow the Participant to participate in the Activity, **I HEREBY AGREE NOT TO DROWSY WATER RANCH, INC. d/b/a DROWSY WATER RANCH, FOSHA FAMILY DWR, LLC, RANDY SUE FOSHA**, their affiliated companies and subsidiaries, or any of their respective successors in interest, affiliated organizations and companies, insurance carriers, owners, agents, employees, representatives, assignees, officers, directors, members, managers, shareholders, and private landowners, (each hereinafter a "Released Party") for any property damage or loss (including but not limited to equipment damage or loss), injury or loss to Participant, including death, which Participant may suffer, arising in whole or in part out of Participant's participation in the Activity and the inherent risks of the Activity. By signing this Agreement Not to Sue, I am releasing any right to make a claim or file a lawsuit against any Released Party. I agree to hold harmless and release each and every Released Party from any and all liability and/or claims or causes of action for injury or death to persons or damage or loss to property arising from Participant's participation in the Activity and the inherent risks of the Activity, including, but not limited to those claims based on breach of any contract and/or express or implied warranty but not gross negligence or intentional conduct.

6. Agreement to Indemnify: I agree to **INDEMNIFY (REIMBURSE)** each Released Party from and for any and all claims of the undersigned Participant and/or a third party arising in whole or in part from Participant's participation in the Activity. In other words, if Participant and/or anyone on Participant's behalf files any lawsuit or brings any claim for injury or damage against any Released Party, undersigned Participant will be required to pay back to the Released Party all sums of money incurred by or paid by or on behalf of any of the Released Parties on account of the bringing of such suit or claim, including all attorneys' fees and costs.

7. Medical Authorization, Release, and Indemnification: I hereby: 1) authorize the Released Parties to undertake any emergency medical care for me; 2) authorize the Released Parties and/or their authorized personnel to call for medical care for me or to transport me to a medical facility or hospital if, in the opinion of such personnel, medical attention is needed; 3) agree that, following my transport to any such medical facility or hospital, the Released Parties shall not have any further responsibility for me; 4) agree to pay all costs associated with the medical care, rescue, or any related transportation provided for me; and 5) shall release and hold the Released Parties harmless from any claims associated with such medical care and/or related transportation.

8. Application of Agreement to Minor Participants: In the case of a minor Participant, I, as parent or legal guardian, acknowledge that I am not only signing this Agreement on my behalf, but that I am also signing on behalf of the minor and that the minor shall be bound by all of the terms of this Agreement. Additionally, by signing this Agreement as the parent or legal guardian of a minor Participant, I understand that I am also waiving certain rights on behalf of the minor that the minor otherwise may have. I agree that but for the foregoing, the minor Participant would not be permitted to participate in the Activity and sign this document out of a desire to have the Participant be allowed to participate in the Activity. I represent that I am a **legal** parent or guardian of the minor Participant.

9. Representation of Capacity to Contract, and Acknowledgement That Agreement is a Binding Contract: I represent that I am at least 18 years of age, and that I have the capacity to understand and be bound by all of the provisions of this Agreement. I understand and acknowledge that this Agreement is a contract and shall be binding to the fullest extent permitted by law. It is my intent that this Agreement shall be binding upon my assignees, subrogors, distributors, heirs, next of kin, executors, and personal representatives.

10. Agreement to Application of Colorado Law and Selection of Forum: I agree that any and all claims directly or indirectly arising from or related to this Agreement, including any and all tort or contract claims arising from my participation in the Activity under this Agreement, shall be governed by Colorado law, and that the exclusive jurisdiction for any such claim shall be in the Grand County

Initials: _____

14th Judicial District Court, Colorado, without regard to where the incident giving rise to any lawsuit occurs, and without regard to any jurisdiction's conflicts of laws analysis.

11. Miscellaneous Provisions: I agree that Drowsy Water Ranch may utilize my photograph or video of me participating in the Activity for any purpose, and that any such image is the property of Drowsy Water Ranch. If any sentence, clause, paragraph, or part of this Agreement is declared unenforceable, the remainder shall continue in full force and effect. This Agreement may be modified only in writing. An electronic signature or acknowledgment of Agreement upon this contract is fully binding and enforceable, and a copy of this executed Agreement may be used as if it is the original. I agree that Drowsy Water Ranch is not a common carrier.

I HAVE CAREFULLY READ THE FOREGOING THREE-PAGE AGREEMENT AND UNDERSTAND ITS CONTENTS. I AM AWARE THAT I AM RELEASING CERTAIN LEGAL RIGHTS THAT I OR MY MINOR CHILD MAY OTHERWISE MAY HAVE. I AGREE TO BE FULLY BOUND BY THE TERMS OF THIS AGREEMENT.

Signature

Printed Full Name

Date

If signing on behalf of a minor, printed full name of minor Participant(s): _____