

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

Please read this contract carefully.

It releases COOL RIVER TUBING COMPANY, INC. from liability and waives certain rights.

In consideration of being permitted to participate in an unguided tubing trip with COOL RIVER TUBING COMPANY, INC. d/b/a Cool River Tubing ("Cool River Tubing"), 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 an unguided tubing trip which experience may entail various activities including tubing, river wading or walking, and related transport by or with Cool River Tubing (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 Cool River Tubing, 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 tubing and being around or in water, including:** falling into water; water immersion, including drowning; jolting or jarring resulting in contact with hard objects including push sticks, the body parts of other participants, and rocks; injurious contact with natural and manmade objects, including bridges, decks, or other unexpected objects; capsizing or flipping tubes; becoming tangled in tie straps or other lines; getting trapped or caught beneath an overturned tube; foot entrapment; being trapped by a hydraulic, swift current, undercut or other river feature; trapped limbs; striking and/or becoming entangled with overhanging trees; strainers, rocks, or other objects under, near, or above the surface of the water; lacerations due to injurious contact with sharp vegetation, rocks, metal, or glass in the water; improperly rigged gear or equipment; failure to understand how to properly use or maintain equipment during a trip resulting in its failure or malfunction; physical over-exertion; mental or physical shock; tubing equipment malfunction, including popping or deflating tubes; changing or unexpected natural or man-made river conditions; bank collapse; and errors in staff judgment; **b) General risks associated with hiking, transport in buses, and being on an outdoor tubing trip with other participants, including:** rough or unmaintained trail; slipping, tripping or falling including falling while wading or walking along the water's edge; falling into the water while onshore; variations in terrain; exposure to steep terrain; injurious contact with domestic animals, including dog bites and scratches; allergen exposure; exposure to poisonous plants; exposure to various dangerous or diseased wildlife or insects, including bee, wasp, or scorpion stings, tick bites, bat bites, snake bites and venomous reptile bites; falling trees, rocks, or other objects; moving objects associated with extreme weather; changing weather, cold air or water temperatures, dangerously hot temperatures, temperature fluctuations, wind, hail, lightning, heavy rain, and other adverse weather conditions; lack of shelter; extreme or partial darkness; wildfire and associated smoke; burns or burning associated with hot surfaces and sun exposure; exposure to food-borne, water-borne, vector-borne, or airborne bacteria, virus, or pathogens; exposure to food allergens; landslides; earthquakes; rock-fall; mudslides; flashfloods; dangerous water crossings; all manner of outdoor injuries including head injury, spinal injury, broken bones, overstretching or over-exertion; mental or physical shock; internal injury, sickness or disease, hypothermia, sunburn, heatstroke, dehydration, and hyponatremia; the discharge of weapons in the area of Activity; intoxicated Activity participants; mentally or physically unstable or criminal trip participants; negligence by trip participants; inadequate or incorrect medical care; poorly executed or failed rescue attempts; dangerous contact with rescue vehicles or aircraft; failure of or lack of communication equipment; inadequate or malfunctioning equipment; all commonly understood risks of riding in a bus including crashes; errors in staff or driver judgment or lapse in staff or driver skill; and mental, physical, or emotional injury or distress from exposure to the inherent risks listed herein. I understand that Cool River Tubing has done its best to list the known risks of participating in the Activity, but agree that I have the right, obligation, and opportunity to research and verify the risks of participating in the Activity.

2. 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 freely choose to accept the risks of participating in the Activity. I recognize that property loss, physical or emotional injury, and death are all possible while participating in the Activity. I expressly acknowledge and assume all inherent risks, dangers, and consequences of the Activity, including but not limited to those risks, dangers, and consequences set forth in paragraph 1 above, that may result in physical or emotional injury, property damage, or death.

3. Participant's Responsibilities and Representations: I represent that I am physically and mentally capable of participating in the Activity. I represent that I have had the opportunity to both independently research and discuss with Cool River Tubing the risks of participating in the Activity and my assumption of those risks. I understand that floating the river in my own tube carries heightened and additional risks to those assumed by a Participant in a guided river trip, and the risk of injury or death is correspondingly higher. I understand that pursuant to local ordinance, no coolers or alcohol are allowed while recreating on the river. I understand that I am responsible for truthfully disclosing and notifying Cool River Tubing of any risk to me or other participants associated with my own mental or physical conditions. 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 Cool River Tubing, including in any website or promotional materials, to induce me to participate in the Activity. I acknowledge and agree that Cool River Tubing recommends wearing a Personal Floatation Device (PFD) while on the river, and that PFDs are available upon

request. I further agree that Cool River Tubing requires participants twelve and under to have a PFD in their possession while on the river, to be worn at the discretion of their legal guardian, pursuant to state law. With all of the foregoing in mind, I assume full responsibility for my own safety.

4. Release of Liability and Agreement Not to Sue: Fully understanding the foregoing paragraphs, and in exchange for Cool River Tubing's agreement to allow the Participant to participate in the Activity, **I HEREBY AGREE NOT TO SUE COOL RIVER TUBING COMPANY, INC.; RAPID RIVER, LLC; HELEN ROLLING RIVER, LLC;** affiliated companies and subsidiaries, or any respective successors in interest, affiliated organizations and companies, insurance carriers, agents, employees, representatives, assignees, officers, directors, members, managers, or shareholders (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. 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, **INCLUDING, BUT NOT LIMITED TO THOSE CLAIMS BASED ON ANY RELEASED PARTY'S ALLEGED OR ACTUAL NEGLIGENCE** or breach of any contract and/or express or implied warranty (but not gross negligence or intentional conduct).

5. 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 or Parties 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.

6. Medical Authorization: I hereby: 1) authorize the Released Party to undertake any emergency medical care for me; 2) authorize the Released Party 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 Party 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 hold the Released Party harmless from any claims associated with such medical care and/or related transportation.

7. 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 Activities and sign this document out of a desire to have the Participant be allowed to participate in the Activities. I represent that I am a **legal** parent or guardian of the minor Participant.

8. 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, and those of the Participant.

9. Agreement to Binding Arbitration: I agree that I shall promptly attempt in good faith to resolve any dispute arising out of or relating to this Agreement, and in the normal course of business, by negotiation, verbally or in writing. Either party may give the other party written notice within ten (10) days of the issuance of a notice of dispute that any such dispute has not been resolved in the normal course of business. Any and all disputes, claims or controversies arising out of or relating to this Agreement which shall not be resolved by negotiation as set forth above shall be submitted to arbitration by an experienced arbitrator mutually selected by the parties. The prevailing party shall be entitled to reasonable and necessary attorney's fees and all reasonable and necessary costs including travel, expert fees, demonstratives, media consultants, or the like, subject to the sole discretion of the arbitrator. Fees shall bear a reasonable relationship to the amount in controversy. **THIS AGREEMENT IS ACKNOWLEDGING AND HEREBY WAIVING ANY RIGHT TO A TRIAL BY JURY AND/OR ANY OTHER APPELLATE SYSTEM OF REVIEW.**

10. Agreement to Application of Georgia Law and Selection of Forum: To the extent that paragraph 9, above, is not enforceable, as a matter of law, and only in such event, 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 Georgia law, and that the exclusive jurisdiction for any claim shall be in the Superior Court of White County, Georgia 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 Cool River Tubing may utilize my photograph, or video of me participating in the Activity for any purpose, and that any such image is the property of Cool River Tubing. If any sentence, clause, paragraph or part of this Agreement is declared unenforceable, the remainder shall continue in full force and effect. This Agreement can 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 Cool River Tubing 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 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: _____