

Massanutten River Adventures, Inc. Participant Assumption of Risks, Acknowledgment of Inherent Risks and Indemnity Agreement

In consideration of the services of Massanutten River Adventures, Inc., its respective agents, owners, lessors, contractors, holding companies, shareholders, officers, volunteers, participants, employees, and all other persons or entities acting in any capacity on its behalf (hereinafter collectively referred to as "M.R.A."), I hereby agree to the following acknowledgements and to discharge M.R.A. on behalf of myself, my parents, my children, my heirs, assigns, personal representatives and estate as follows:

1. **Inherent Risks.** I acknowledge that any **water related activity** such as rafting, tubing, canoeing or kayaking entails known and unanticipated risks that could result in physical or emotional injury, death, or damage to myself, to property, or to third parties. I understand and acknowledge that the enjoyment and excitement of adventure and water activities is derived in part from inherent risks incurred by activity beyond the accepted safety of life at home or in my normal day to day activities and that these inherent risks contribute to my enjoyment and excitement and are an integral reason for my participation in this activity. I understand that such risks simply cannot be eliminated without jeopardizing the essential qualities of the activity. I also understand and acknowledge that failing to use or properly use safety type equipment (such as life jackets) increases my risk of injury or of not surviving an accident or incident while doing a water related activity.

The inherent risks associated with the activity in which I am about to participate include, but are not limited to: encountering whitewater rapids and changing water flows and the possibility that I will be jolted, jarred, bounced, thrown to and fro and shaken about during rides through some of these rapids or changing water flows; it is possible that I could be injured if I come in contact with food boxes, oars/paddles, other storage containers, or other fixed equipment necessary to the operation or outfitting of the raft, tube, canoe or kayak; I recognize there are foot cups or foot holds in watercraft which may assist in stabilizing or holding myself or others in the watercraft but which may present an increased risk of knee, ankle or other injury as a result of restricted movement; the water craft may break down or be faulty; it is possible that loss of control of the raft, tube, canoe or kayak could occur resulting in collision or capsizing or sinking and that if a boat turns over or flips I could be "washed" overboard; boats are slippery when wet and are naturally unstable so that I could slip and fall or be knocked out of the raft, tube, canoe or kayak even in flat or non-moving water; while in the water I may become disoriented, panicked and/or experience trauma from rocks, boulders, etc.; I can slip or fall during hiking or portaging or getting to and from the boat and I understand that the areas in which I might hike sometimes hide dangerous obstacles such as tree wells, tree stumps, creeks, rocks and boulders, forest dead fall, etc.; the boat or any portion of it may collide with or encounter other boats, man-made or natural objects including submerged or semisubmerged trees, rocks, branches, boulders, bridges, etc.; accidents can occur getting on and off the raft, tube, canoe or kayak; changing weather conditions, storms or even lightening are possible; exposure to the natural elements can be uncomfortable and/or harmful and I am aware that this exposure could cause sunburn, dehydration, heat exhaustion, heat stroke, heat cramps, hypothermia or fatigue, some or all of which may diminish my or the other participants' ability to react or respond; I understand that prolonged exposure to cold water can result in "cold water immersion" syndrome or "cold shock," hypothermia and in extreme cases death; I may encounter dangerous wildlife, insects, etc.; communication in the river terrain in which this activity occurs is always difficult and in the event of an accident, rescue and medical treatment may not be immediately available. I expressly acknowledge that the use of drugs or alcohol during my participation in any or all of the activities associated with or provided by the M.R.A. is done at my own peril and is not condoned, encouraged or excused by M.R.A. in any way. I understand that the M.R.A. reserves the right to deny me or any other person participation before or during an activity if it finds that person to be mentally or physically impaired or unprepared. **I acknowledge that I AM ULTIMATELY RESPONSIBLE for my own safety during my participation in M.R.A. events/activities.**

I acknowledge that, in the locations used by M.R.A., participants may experience extreme **environmental** and/or weather conditions. Exposure to the natural elements can be uncomfortable and/or harmful and I am aware that this exposure could cause sunburn, dehydration, heat exhaustion, etc. some or all of which may diminish my or the other participants ability to react or respond. Common (sometimes life threatening) injuries for these types of activities include, but are not limited to the following; strains, sprains, fractures, cold water immersion and/or wounds and trauma to the head or body. Delays or inconvenience because of inclement weather, including but not limited to low visibility, high winds, heavy rain or snow, storms, extreme temperature variations, etc., can occur. I acknowledge that my time participating in M.R.A. events/activities may require me to use **technical equipment** (IE – canoes, paddles, rafts, life jackets, etc.) that I might not be familiar with and that I or other participants may find difficult to use and which I or other participants may use incorrectly. This improper use or operation may include, but is not limited to: the failure to observe and obey all safety rules or instructions given to the participant by M.R.A. guides/staff. I acknowledge that, despite reasonable care and maintenance, essential equipment may fail, malfunction or cause injury or worse harm to myself or others. I expressly acknowledge that **naturally occurring human disease processes** (including, but not limited to, the currently widespread Corona Virus) occur in all environments in which this activity will take place. I acknowledge that, while M.R.A. has taken reasonable measures to avoid contact, exposure, transmittal or contamination of the virus between people (including guests/participants, employees and other third parties) that it is my sole responsibility to safe guard myself and others. I understand and agree that, if I choose to participate in this activity, that M.R.A. cannot and will not have any legal liabilities toward me if I contract the virus. On the other hand, if it is determined that I acted negligently or unreasonably and was responsible for transmittal of the Corona Virus (or any disease process) to other M.R.A. participants or employees, that I may be held legally and financially responsible for that transmittal.

I acknowledge that M.R.A. is **not a "Common Carrier"** but rather is in the business of providing boating/floating and other recreation activities. Transportation to and from activities is incidental to the activity. Transport and car, bus or van travel in some instances may be provided by M.R.A. and/or M.R.A. employees and may involve errors in judgment by M.R.A. or staff operating the vans, buses, cars or other type transport vehicles. The vehicles

and transport trailers may malfunction, break down or be poorly maintained, causing injury, accidents, delays or in the extreme case, death. Transport may be provided by independent contractors to M.R.A. and may involve errors in judgment by those independent contractors.

By signing this Participant Assumption of Risks, Acknowledgement of Risks and Indemnity Agreement, I acknowledge that I AM ULTIMATELY RESPONSIBLE for my own safety during this M.R.A. boating/floating activity.

Furthermore, **M.R.A. staff** have difficult jobs to perform. They seek safety, but they are not infallible. They might be ignorant of a participant's fitness or abilities. They might misjudge the weather, the elements, or the terrain. They may give inadequate warnings or instructions and/or I as the participant may fail to understand the safety directions due to language issues. Further, I may encounter: the negligence or mis-behaviors of other visitors or participants who may be present, participants giving or following inappropriate advice, mine or others' failure to follow the rules of M.R.A. and/or my own negligence or inexperience, some or all of which may diminish my or the other participants' ability to react or respond. I also acknowledge that I have the responsibility to inspect any and all facilities or equipment to be used and to immediately advise M.R.A. of anything which I consider to be unsafe or to refuse to participate. With knowledge of all of these issues:

2. **Express Assumption of Risk.** I expressly agree and promise to accept and assume all the risks existing in this activity. This means I am not just assuming the inherent risks of the activity but rather that I am assuming all of the risks of the activity, even if they are not expressly stated in this document. My participation in this activity is purely voluntary, and I elect to participate in spite of the risks. I agree and understand that my decision to encounter the risks in this activity is the most substantial factor causing any ultimate harm that may come to me during this activity. This is a purely voluntary unnecessary activity for me and even if I do not (or claim that I do not) have knowledge of a particular risk, this express agreement to assume all risks whether they are known or unknown to me is intended to defeat all claims I might have against M.R.A.

3. **Indemnity.** Should M.R.A. or anyone acting on their behalf, be required to incur attorney's fees and costs to enforce this agreement or to defend against lawsuits or claims brought by me or someone on my behalf, I agree to indemnify and hold them harmless (in other words, I agree to pay for...) for all such fees and costs. Plainly put – if I or anyone else violates this release contract and brings suit against M.R.A. I agree to pay all of M.R.A.'s legal fees in defending themselves.

4. **Personal Skill & Insurance.** I certify that I have sufficient skill and fitness to participate in the activities offered by M.R.A. I further certify that I have no medical, mental or physical conditions which could interfere with my safety or ability to participate in these activities, or else I am willing to assume and bear the cost of all risks that may be created, directly or indirectly, by any such condition. I further certify that I have adequate insurance to cover any injury, damage or emergency transportation costs I may cause or suffer while participating (regardless of the cause), or else agree to bear the costs of such injury, damage or emergency transportation costs myself.

5. **Medical Issues.** I further agree that, in the event that M.R.A. deems it necessary to administer emergency first aid or CPR or to remove me from its activities or to extricate me from the field or from the remote venue in which the activity operates for ANY type of health related reason that, by signing this document, I am giving M.R.A. permission to: administer emergency first aid or CPR, secure emergency transport or medical care and/or disclose any medical information it may have about me to any health care provider which may become involved in my care, treatment or removal from the field. By signing this document I am waiving any right to object to or bring any type of action or claim against M.R.A. for its administration of emergency first aid or CPR or for securing emergency transport or medical care and/or for the disclosure of personal medical information it may have about me to any health related person who becomes involved in my care or removal from M.R.A. activities or the field.

6. **Photographic Assignment.** I understand that M.R.A. reserves the right to take photographic or film (of whatsoever nature) records of any or all of the activities offered by it and I hereby agree that M.R.A. may use such records for promotional and/or commercial purposes without any remuneration to me. I hereby assign all right, title and interest I may have in or to any and all media in which my name or likeness might be used by M.R.A. I agree and acknowledge that M.R.A. cannot control media or photographic images of me that may be generated or disseminated by other participants or third parties.

7. **Release as Contract and Personal Capacity.** I expressly agree and acknowledge that the terms of this Participant Assumption of Risks, Acknowledgment of Inherent Risks and Indemnity Agreement **are contractual in nature**, supported by Virginia law and that I am signing it of my own free will. I expressly acknowledge that I am not under the influence of drugs or alcohol at the time of my signing of this agreement and that there are no other impediments or reasons why I would lack the capacity to sign this document.

8. **Forum Selection, Severability, Breach of Contract/Warranty Waiver, Etc.** In the event I file a lawsuit against M.R.A., I agree to do so solely in the State of Virginia, and I further agree that the substantive law of that state shall apply in that action without regard to the conflict of law rules of that state and I hereby irrevocably waive any other jurisdiction or venue to which I or my estate or my children's estates might otherwise have been entitled. I agree to submit to the jurisdiction of the Virginia courts. I agree that if any portion of this agreement/contract is found to be void or unenforceable, the remaining portion shall remain in full force and effect; this document is intended to be interpreted as broadly as possible. I also expressly agree that this release contract will be admissible into evidence in any legal proceeding which I initiate or become involved in against M.R.A., even if the Court rules that the contract is not dispositive of the case. A copy of this agreement can be used as if it was the original. I understand that this document constitutes the entire agreement between myself and M.R.A. and that it cannot be modified or changed in any way by representations or statements of any nature (be

they vocal, advertising, etc.) outside of this document; in other words, I am also waiving any claims I might have for breach of contract or warranty for statements or representations made outside of this release contract.

By signing this document, I acknowledge that if anyone is harmed or property is damaged during my participation this M.R.A. trip, I may be found by a court of law to have waived my right to maintain a lawsuit against M.R.A. on the basis of any acknowledgments I have made in this document.

I HAVE HAD SUFFICIENT OPPORTUNITY TO READ THIS ENTIRE DOCUMENT (ALL 3 PAGES). I HAVE READ AND UNDERSTOOD IT, AND I AGREE TO BE BOUND BY ITS TERMS DURING THE FULL 2020-2021 M.R.A. OPERATING SEASON. My express intention in signing this complete release of claims document is to voluntarily exchange this release contract with M.R.A. for the opportunity to participate in recreational activities with M.R.A.

Participant Signature: _____ **Printed Name:** _____
Address: _____ **City:** _____ **State:** _____
Postal Code: _____ **Country:** _____ **E-mail address:** _____ **Phone**
#: _____ **Date:** _____

Parent Signature: _____ **Printed Name:** _____
Participant Signature: _____ **Printed Name:** _____
Address: _____ **City:** _____ **State:** _____
Postal Code: _____ **Country:** _____ **E-mail address:** _____ **Phone**
#: _____ **Date:** _____

Parents or Guardians Additional Indemnification (Must be completed for participants under 18 years of age)

I/we represent that I/we have complete and absolute authority to bind, contract for and legally act on behalf of the minor child listed above; I/we believe and represent that I/we have the legal authority to make the waivers and releases contained herein. I/we understand and acknowledge that M.R.A. relies to its detriment on this representation and would not allow the minor child to participate in this trip without this representation. In consideration of _____ (print minor's name) ("Minor") being permitted by M.R.A. to participate in its activities and to use its equipment and facilities, I further agree to indemnify and hold harmless M.R.A. from any and all claims which are brought by, or on behalf of Minor, and which are in any way connected with such use of participation by Minor.

Parent Signature: _____ **Printed Name:** _____ **Date** _____

Parent Signature: _____ **Printed Name:** _____ **Date** _____