

# WAIVER AND ASSUMPTION OF RISK AGREEMENT



**Information Note** – This Note does not form part of the **Waiver and Assumption of Risk Agreement**. It is intended to give guidance about what you are agreeing to by signing this form.

The first section, paragraphs 1–11, are about the risks involved in your chosen experience.

**Paragraphs 1–5** are your acknowledgment that you accept the risks and hazards of Antarctic travel, including the effects that cold and altitude may have on you.

**Paragraphs 6–8** are about your training and the use of your own or ALE’s equipment.

**Paragraphs 9 and 11** are about insurance for the trip.

**Paragraph 10** is your confirmation that you are fit and able to undertake the experience.

The second section, paragraphs A–F, are your promise to ALE that you give up certain rights when you join an experience.

**Paragraphs A–B** are your release of liability for personal injury or death, or loss or damage to your property.

**Paragraphs C and E** are your agreement not to sue now or at any time in the future.

**Paragraph D** is your agreement not to make any third party claims.

**Paragraph F** tells you that this waiver will be used if you later take a case to court.

The Parent/Guardian Waiver for those in their care under the age of majority is your acknowledgment that you are giving up legal rights on behalf of your child or ward, who is not old enough to sign for themselves.

## PLEASE READ CAREFULLY BEFORE SIGNING

### ANTARCTIC LOGISTICS & EXPEDITIONS LLC WAIVER AND ASSUMPTION OF RISK

**WARNING:** BY SIGNING THIS DOCUMENT YOU ARE GIVING UP LEGAL RIGHTS. PLEASE READ THIS ENTIRE AGREEMENT CAREFULLY BEFORE INITIALING OR SIGNING. If you have any question concerning any of the provisions of this Agreement, do not sign it until you understand the consequences or have had them explained to you by independent counsel. As set forth below, by signing this Agreement and participating in activities offered by and/or through Antarctic Logistics & Expeditions, LLC and its affiliated entities (collectively, "ALE"), you agree that if you are injured or killed, neither you, nor your estate in the event of your death, will be able to recover any money (by lawsuit, insurance claims or otherwise) from any "Released Party" (as that term is defined below) for damages suffered by you even if someone besides yourself is at fault for your injury or death. Please acknowledge that you have read and understand this by initialing in the space provided at the bottom of each page.

**NO INSURANCE PROVIDED:** Please note that there is no insurance coverage provided by the "Released Parties" (as that term is described below) for your death or any injuries that may happen to you while participating in any activities related to the experiences, as defined below.

As used herein, the term "Released Party" or "Released Parties," means the individual and collective reference to Antarctic Logistics & Expeditions, LLC, its managers, members, officers, agents, and affiliates, as well as all instructors, employees, agents, creditors, benefactors, contractors, and representatives of any of them. The term "Agreement" means this **Waiver and Assumption of Risk Agreement**.

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**THE FOLLOWING PARAGRAPHS CONTAIN DISCLOSURES OF RISKS AND ACKNOWLEDGMENT, REPRESENTATIONS AND WARRANTIES MADE BY YOU CONCERNING SUCH RISKS**

I, \_\_\_\_\_ (PRINT NAME) (the "Participant"), hereby certify that each of the following representations and warranties are true and correct in all respects:

1. I understand and acknowledge that training for and otherwise engaging in any activities or experiences offered by or through ALE and participating in activities related to the foregoing (collectively, "experiences") have inherent dangers to life and limb and that no amount of care, caution, instruction or expertise can eliminate such risks and hazards.
2. I have sufficient personal experience in and/or knowledge of experiences to understand and appreciate the risks involved. I understand that the same high level of inherent risk exists in any experiences offered by ALE as exists elsewhere in Antarctica, and that no inference should be made from stated risks associated with other similar experiences offered by or through other organizations.
3. EXPERIENCES ARE DANGEROUS ACTIVITIES and I understand that associated equipment does not always work as expected, whether due to malfunction, fatigue, stress, hidden or latent defect or otherwise.
4. I understand that even under the best conditions, participating in experiences is a hazardous activity and injuries may occur in the course thereof.
5. I am aware that I will, in addition to the usual dangers inherent in travel, skiing or mountaineering experiences, be exposed to certain additional hazards and risks specific to travel in Antarctica, including without limitation:
  - Extreme weather conditions that can change rapidly and without warning;
  - Extreme low temperatures that, particularly when compounded by strong winds, can have rapid adverse effects on the human body;
  - The effect of altitude induced hypoxia (lack of Oxygen) at the South Pole;
  - Exposure to solar radiation is more intense than in other parts of the world and is aggravated by reflection from ice and snow creating additional dangers and risks to skin and eyes;
  - Extreme low temperatures and hypoxia due to altitude may have adverse effects on pre-existing medical conditions, known or unknown. In particular, and without limiting the generality of these risks, if I take or intend to self-administer drugs for altitude illness prophylaxis I must do so under medical supervision, and I must declare this to ALE's physicians.
  - The remoteness of the Antarctic region from advanced medical facilities creates additional risks. Conditions that do not normally pose a serious threat to health or safety where advanced medical treatment facilities are readily accessible may be exacerbated by the logistic challenges in Antarctica;
  - Hazardous, little known terrain covered in ice and snow that may disguise or completely obscure dangers such as unstable slopes and crevasses;
  - Food and special supplies may be limited unless I have made known in writing special dietary requirements;
  - Risks of air travel—the general lack of air traffic, air traffic control facilities and meteorological prediction facilities in Antarctica mean that information normally available to aircrews is often unavailable. Search and rescue infrastructure is also severely limited.
6. I understand that because of the unavoidable and unpredictable dangers involved in experiences, including the use of associated equipment, the Released Parties have not made and hereby EXPRESSLY DISCLAIM ALL REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESSED OR IMPLIED, AS TO THE MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR AS TO THE ABSENCE OF LATENT OR HIDDEN DEFECTS of any kind of any staging areas, facilities, or related equipment owned, operated or provided or approved by any of the Released Parties.
7. I understand that because of the nature of experiences, it is impossible for the Released Parties to determine with any degree of certainty that I have been properly trained to participate in the experiences or that I have fully understood any instruction presented to me. Furthermore, it is impossible for the Released Parties to predict how anyone will react under the conditions and stress that are inherent in experiences. For that reason, I understand that there is NO WARRANTY, whatsoever, as to the adequacy of training provided by the Released Parties to me. I understand that I will be required to warrant to the Released Parties, that based upon my own evaluation of the training I have received, I

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believe that I have been adequately trained and that I can safely perform experiences and cope with the conditions and stress of experiences before I will be allowed to undertake any experiences.

8. I have conducted my own independent research and investigation concerning the risks inherent in experiences and the potential for injury or death while engaged in such activity and I have fully informed myself concerning the same, or have chosen not to do so. Also, I have fully inspected, or had the opportunity to do so, any equipment I will be using in connection with experiences. I further warrant that I have had the opportunity to conduct such personal inspections prior to each time I engage in experiences. As such, I am not relying on any representation or warranty of any kind from any Released Party, including without limitation, any representation or warranty of the kind described in the preceding paragraph. I UNDERSTAND THAT I NEED NOT USE THE EQUIPMENT SUPPLIED BY THE RELEASED PARTIES BUT I MAY USE MY OWN EQUIPMENT, IF IT HAS BEEN APPROVED BY ALE. Notwithstanding the foregoing, I understand that the approval of any equipment by ALE is not a warranty of the fitness or suitability of the equipment for any purpose.
9. I have been advised and understand that my experiences are not covered by any personal accident or general liability insurance policy issued to or maintained by the Released Parties.
10. I hereby certify that I do not suffer from any physical infirmity or chronic illness which would affect my ability to engage in experiences. I further certify that I am medically, physically and in all other respects, fit and fully able to participate in the experiences. I have no special medical requirements or conditions except as described in the Medical Information Form submitted in conjunction with the application to participate in the experiences.
11. I have been strongly advised to purchase travel and medical evacuation insurance, and I hereby assume any risks or losses that may be incurred by not securing such insurance. In no case shall I hold any Released Party liable for any losses that may be incurred by any delays, cancellations, or rescheduling that may take place regarding the experience, except as provided through ALE's written cancellation and refund policy.

**THE FOLLOWING PARAGRAPHS CONTAIN YOUR PROMISE AND OBLIGATION TO ASSUME ALL RISKS, WAIVE CERTAIN RIGHTS AND INDEMNIFY OTHERS IN CONNECTION WITH YOUR PARTICIPATION IN EXPERIENCES**

Based on the disclosures and acknowledgments set forth herein, and in consideration for being permitted to utilize the facilities and equipment of the Released Parties and to engage in experiences provided by ALE,

I, \_\_\_\_\_ (PRINT NAME), hereby agree as follows:

- A. RELEASE FROM LIABILITY.** I hereby FOREVER RELEASE AND DISCHARGE all Released Parties (as that term is defined above), from any and all liabilities, claims, demands or causes of action that I may hereafter have for personal injuries, death or property damage arising out of my participation in experiences, including but not limited to, personal injuries, death or property damage caused wholly or in part by (i) hidden, latent, or obvious defects in any facilities or in the equipment used in connection with the experiences, (ii) the failure of any representation or warranty I have made herein to be true in all material respects, (iii) the negligence, including any act, other than the willful misconduct, of or omission by any Released Party, and (iv) my failure to observe and comply with all laws, regulations, policies and rules affecting the experiences.
- B. ASSUMPTION OF RISK.** Further, upon undertaking responsibility to be fully informed of all risks, I hereby EXPRESSLY AND VOLUNTARILY ASSUME ALL RISK of death or personal injury to myself or of damage to property owned by myself or others sustained while participating in experiences, including without limitation, the risk of injury or death or property damage caused wholly or in part by (i) hidden, latent, or obvious defects in any facilities or in the equipment used in connection with the experiences, (ii) the failure of any representation or warranty I have made herein to be true in all material respects, (iii) the negligence, including any act, other than the willful misconduct, of or omission by any Released Party, and (iv) my failure to observe and comply with all laws, regulations, policies and rules affecting the experiences.
- C. COVENANT NOT TO SUE.** I agree never to institute any suit or action at law or otherwise and hereby instruct my heirs, executors and administrators never to institute any suit or action at law or otherwise against any Released Party nor to initiate any nor assist the prosecution of any claim for damages or cause of action which I, my heirs, executors or administrators may have by reason of injury or death to my person or property arising from the activities contemplated by this Agreement.

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- D. INDEMNIFICATION AGAINST THIRD PARTY CLAIMS.** I also agree to INDEMNIFY, DEFEND AND HOLD HARMLESS the Released Parties from all liabilities, claims, demands, causes of action, judgments and costs, including attorney's fees, incurred or initiated in connection with my participation in experiences, including but not limited to losses caused by my negligence, or my failure to (i) be fully informed and trained, (ii) comply with each representation or warranty made by me in this Agreement prior to each time I engage in experiences, or (iii) observe and comply with all applicable safety and other laws or regulations applicable to experiences.
- E. CONTINUATION OF OBLIGATIONS.** I agree and acknowledge that the terms and conditions of the foregoing paragraphs A through D and this paragraph E shall continue in full force and effect now and in the future at all times during which I participate, either directly or indirectly, in experiences or other activities provided by ALE or in connection with any of the Released Parties and shall be binding upon my heirs, executors and administrators of my estate.
- F. VALIDITY OF WAIVER.** I acknowledge that the Released Parties have expressly relied upon each and every one of the representations, warranties and promises I have made in this Agreement as an inducement and condition precedent to their agreement to provide instruction in experiences and/or allow me to use certain of their related equipment and facilities. I also understand that if I institute any suit or action at law for any claim for damages or cause of action because of injury or death to my person or property due to the activities contemplated by this Agreement, this Agreement can and will be used in court and that waivers of this type have been upheld in courts in similar circumstances.

In the event that one or more of the above clauses is held to be invalid, unenforceable or contrary to public policy, that clause shall be severable from the remaining clauses which shall continue to be in full force and effect to the greatest extent permitted by law.

**I HAVE CAREFULLY READ THIS WAIVER AND ASSUMPTION OF RISK AGREEMENT. I FULLY UNDERSTAND ITS CONTENTS AND SIGN IT OF MY OWN FREE WILL.**

In Witness Whereof, I have executed this Agreement as of the date set forth below.

Name (print): \_\_\_\_\_ Address: \_\_\_\_\_

Signature: \_\_\_\_\_

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

Witness Name: \_\_\_\_\_

Witness Signature: \_\_\_\_\_

# PARENT/GUARDIAN WAIVER FOR THOSE IN THEIR CARE UNDER THE AGE OF MAJORITY

PLEASE READ CAREFULLY BEFORE SIGNING

## ANTARCTIC LOGISTICS & EXPEDITIONS LLC PARENT/GUARDIAN WAIVER FOR THOSE IN THEIR CARE UNDER THE AGE OF MAJORITY

**WARNING:** BY SIGNING THIS DOCUMENT YOU ARE GIVING UP LEGAL RIGHTS ON BEHALF OF YOUR CHILD OR WARD AND ON BEHALF OF YOURSELF. PLEASE READ THIS ENTIRE AGREEMENT (INCLUDING THE ATTACHED **WAIVER AND ASSUMPTION OF RISK AGREEMENT**) CAREFULLY BEFORE SIGNING. If you have any question concerning any of the provisions of this Agreement, do not sign it until you understand the consequences or have had them explained to you by independent counsel.

*PRIOR TO SIGNING THIS PARENT/GUARDIAN WAIVER FOR THOSE IN THEIR CARE UNDER THE AGE OF MAJORITY, YOU SHOULD CAREFULLY REVIEW THE ATTACHED WAIVER AND ASSUMPTION OF RISK AGREEMENT AND INITIAL EACH PAGE WHERE INDICATED.*

Based on the disclosures and acknowledgments set forth herein (including in the attached **Waiver and Assumption of Risk Agreement**), and in consideration for my child or ward being permitted to utilize the facilities and equipment of the Released Parties and to engage in experiences provided by ALE, I, the parent or legal guardian of the Participant, hereby represent and warrant that I have consented to my child's or ward's participation in the experiences and hereby agree individually and on behalf of the Participant to the terms of the **Waiver and Assumption of Risk Agreement** set forth above. I further agree to INDEMNIFY, DEFEND AND HOLD HARMLESS the Released Parties from all liabilities, claims, demands, causes of action, judgments and costs, including attorney's fees, incurred or initiated in connection with Participant's participation in experiences (collectively, "Claims"), including, without limitation, any Claims arising out of any lack of legal capacity of Participant to consent to the **Waiver and Assumption of Risk Agreement**.

I hereby give permission to ALE, its staff, employees, agents and/or representatives to administer emergency medical treatment to the Participant for any accident or illness as such persons deem necessary or appropriate in the circumstances.

**I HAVE CAREFULLY READ THIS PARENT/GUARDIAN WAIVER FOR THOSE IN THEIR CARE UNDER THE AGE OF MAJORITY, INCLUDING THE WAIVER AND ASSUMPTION OF RISK AGREEMENT TO WHICH THIS WAIVER RELATES. I FULLY UNDERSTAND ITS CONTENTS AND SIGN IT OF MY OWN FREE WILL.**

In Witness Whereof, I have executed this Agreement as of the date set forth below.

NAME OF CHILD/WARD (print): \_\_\_\_\_

Date of Birth of Child/Ward: \_\_\_\_\_

Name of Parent/Guardian: \_\_\_\_\_

Address: \_\_\_\_\_

Signature of Parent/Guardian: \_\_\_\_\_

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

Witness Name: \_\_\_\_\_

Witness Signature: \_\_\_\_\_