

Kayak Ways LLC

Acknowledgement and Assumption of Risks and Waiver, Release & Indemnification Agreement

In consideration of being allowed to participate in any course, program, event, and all related activities, and to use any property, facilities and/or equipment (all hereafter referred to as “Activities”) provided by Kayak Ways LLC (hereinafter “Kayak Ways”), I hereby acknowledge and agree to the following.

1. **Inherent Risks.** There are inherent risks involved in kayaking, its related activities, and in any Kayak Ways Activities. These include but are not limited to risks of physical and/or mental injury, disease, and even death. Such inherent risks include, but are not limited to, the following.
 - a. **Inherent Risks of Outdoor and Wilderness Activities.** Kayak Ways Activities occur largely in the outdoors, and oftentimes in wilderness environments. Engaging in such outdoor and wilderness activities involves inherent risks that can be unique to those environments. Amongst other things, these include:
 - i. **Land Hazards.** These include hazards from weather, terrain, rivers and river structures, lakes and ponds, falling trees and branches, falling rock or ice, human built structures of various ages and disrepair, debris and broken glass, plants, harmful animals, and insects.
 - ii. **Marine Hazards.** These include hazards from fog, tides, currents, ocean swells, waves, submerged and exposed rocks, marine flora and fauna, other boats, marine debris, heat exposure, cold water immersion, cold water shock, hypothermia, water inhalation, and drowning.
 - iii. **Environmental Hazards.** These include hazards caused by environmental conditions that are naturally occurring and/or caused by human activities, including severe and rapidly changing environmental conditions (such as lightning, earthquakes, fires, etc.), exposure to pathogens and diseases (from animals, insects, marine life, etc.), and exposure to hazardous materials.
 - b. **Inherent Risks of Physical Effort.** Kayak Ways Activities involve physical effort, including lifting and carrying heavy objects, steady aerobic effort, and intense bursts of physical effort. These have inherent risks, including the risks of physical injury and even death. They should only be undertaken by those in good health.
 - c. **Inherent Risks of Kayaking & Associated Outdoor Activities.** Kayak Ways Activities are centered on kayaking and kayak rolling, but can include general outdoor activities such as camping and hiking. Inherent risks of kayaking include seasickness, fatigue, capsize, collision with vessels, entanglement with lines and equipment, entrapment, loss of contact with your kayak, disorientation, getting lost, rough water conditions, noise, miscommunications, misunderstandings, human error, mental exertion and stress, loss of physical capacity, loss of mental capacity, equipment damage and failure. Inherent risks of kayak rolling include disorientation, water inhalation, nausea, and entrapment. Inherent risks of general outdoor activities include risks from slips, falls, lifting, use of fire and cooking stoves, food poisoning, and use of knives, axes and other outdoor tools. All these risks include risks of physical and/or mental injury, disease, and even death.
 - d. **Inherent Risks of Adventure, Training & Learning.** Kayak Ways Activities include adventure, training and learning, all of which involve introducing and exposing participants to new, exciting but also challenging skills, environments and experiences. These can involve additional inherent risks to those summarized above, including risks of physical and/or mental injury, disease, and even death.
 - e. **Inherent Risks of Contracting Communicable Disease.** Kayak Ways Activities involve groups of people, including instructors, participants, and others. This group involvement includes the inherent risk of contracting one or more communicable disease, some of which are highly contagious (such as the novel coronavirus COVID-19). Communicable diseases, like COVID-19, can cause illness, injury and even death.
2. **Staff Judgment.** The guides, instructors, and staff who run the Kayak Ways Activities, whether employees of Kayak Ways, independent contractors, or volunteers (collectively, “Staff”) constantly make judgments about how to run those Activities, as well as how to handle various situations and inherent risks confronted during such Activities. Staff base those judgments on their observations and assessments of a variety of factors, including the risks summarized above and also the capabilities of participants engaging in

those Activities. Such observations, assessments and judgments are frequently affected by environmental and situational factors, as well as individual subjectivity. While Kayak Ways Staff strive to make the right judgment on all occasions, other individuals - whatever their knowledge, skill and experience may be - may disagree with such judgments and may even conclude such judgments constitute legal negligence.

3. **Participant Responsibility.** While Kayak Ways Staff will make their own judgments as to what Activities are suitable for participants, it is essential all participants acknowledge and accept they have their own responsibilities while engaging in such Activities. These include advising Staff of any physical or medical conditions that could impact their ability to participate in the Activities safely, and in accurately describing any past experience and skill levels in such Activities. In addition, all participants must advise Staff if they, at any time, feel any Activities are above their capabilities or are otherwise unsafe for them. Kayak Ways and its Staff understand and respect participants who state any Activity appears too challenging for them.

ACKNOWLEDGEMENT AND ASSUMPTION OF RISKS. Having read and fully understood the foregoing regarding inherent risks, staff judgment and participant responsibility, I acknowledge and assume all hazards and risks associated with the foregoing and in participating in Kayak Ways Activities.

WAIVER AND RELEASE OF CLAIMS. Having read and fully understood the foregoing, I, for myself and for my heirs, assigns, successors, executors, administrators, and legal representatives, hereby waive, release, and agree that I will not sue Kayak Ways (including their owners, directors, officers, and affiliates) and their Staff (including any agents, servants, employees, volunteers, interns and independent contractors) for any form of damages or compensation for personal injury, loss of life, economic loss of any kind, and/or property damage sustained by me, and/or arising in any way from my participation, in any Kayak Ways Activities, even if such damages are due to the NEGLIGENCE of Kayak Ways and/or its Staff.

INDEMNIFICATION. I, for myself and for my heirs, assigns, successors, executors, administrators, and legal representatives, agree to defend, indemnify and hold harmless Kayak Ways (including their owners, directors, officers, and affiliates) and their Staff (including any agents, servants, employees, volunteers, interns and independent contractors) from any and all claims, suits or demands of any kind, whether made by me or by any other person or any entity, arising in any way from my participation in any Kayak Ways Activities, including any claims of NEGLIGENCE on the part of Kayak Ways and/or their Staff. Such defense and indemnification includes being responsible for all costs, including attorney fees, that may otherwise be incurred by Kayak Ways and/or their Staff as a result of any such claims, suits or demands.

CHOICE OF LAW & SEVERABILITY. Any dispute between me and Kayak Ways and/or their Staff will be governed by the laws of the State of Maine, and I consent to jurisdiction in Maine. If any part of this agreement is deemed by any court or other appropriate authority to be invalid, I agree the remainder of the agreement shall nonetheless remain in full force and effect and be binding upon me, and any such invalid provision shall be modified or partially enforced in such a way to fulfill the purpose of this agreement.

I have read this Acknowledgement and Assumption of Risks and Waiver, Release and Indemnification Agreement, and I fully understand its terms. I further understand that by signing this agreement that I am giving up substantial legal rights. I have not been induced to sign this agreement by any promise or representation, I have had ample opportunity to read this Agreement and to ask any questions about it, and I understand I may, at my own discretion, choose not to participate in any Kayak Ways Activities. I sign this Agreement voluntarily and of my own free will.

Participant Name - Printed

Participant Signature

Date

Address & Telephone Number