

## **NOCO CLIMBING GUIDES: ACKNOWLEDGMENT & ASSUMPTION OF RISKS AND RELEASE & INDEMNITY AGREEMENT**

**Please read this entire Acknowledgment & Assumption of Risks and Release & Indemnity Agreement (“Document”) carefully before signing.** The adult participant must sign this Document. If participant is a minor (those under 18 yrs. of age; “minor” or “child”), one of the participant’s parents or legal guardians (collectively, “parent”) must sign. In consideration of the services of NoCo Climbing Guides, LLC (also referred to in this Document as “NoCo”) in allowing me/my child to participate, I (adult participant or parent of a minor participant) **acknowledge and agree as follows:**

**PLEASE NOTE:** As identified below, among other important provisions, I acknowledge that I am/my child is voluntarily participating in the activities despite the risks, including the risks associated with COVID-19.

**ACTIVITIES ON FEDERAL LANDS:** Some federal land agencies may have restrictions, such as prohibiting service providers from seeking releases of liability for their own negligence when operating under permit on those federal lands. To the extent a court or arbitrator determines, as a matter of law, that these federal restrictions prohibit me from agreeing to any clause below, that clause will not be enforced, and the rest of this Document will remain in effect.

### **ACTIVITIES, RISKS AND ACKNOWLEDGMENT AND ASSUMPTION OF RISKS:**

Participating, whether attending, observing, or actively participating in instructional, recreational, and/or adventure activities includes risks. Activities take place in Colorado on public lands (collectively “Locations”) and may be conducted or led by NoCo staff, its contractors, or others. Activities may include, but are not limited to: walking or hiking; rock climbing or bouldering (outdoors on natural rock); rappelling; mountaineering; orienteering; outdoor games; team-building exercises; service projects (including landscaping and trail maintenance); use of equipment; and travel in vans, cars, or other vehicles (collectively, “activities”). Activities may be partial or full-day, scheduled or unscheduled, belayed or not belayed; spotted or unspotted; and/or supervised or unsupervised by NoCo guides. **I acknowledge that the inherent and other risks, hazards and dangers (collectively, “risks”) of the activities can cause injury, damage, death or other loss to participant or others, including me or other members of my and/or my child’s family.** Parent gives permission for their child to participate in all activities and agrees to discuss the nature of the activities and risks with their child. **The following describes some, but not all of those risks:**

**Outdoor environment.** Risks include travel in high altitude (at or above 8000 feet) mountainous and wilderness terrain. Participants may be subject to storms, including lightning, strong winds, rain, hail, sleet, or snow; falling or unstable rocks and ice; hot or cold weather or water and rapid or unpredictable weather changes; falling or fallen timber; steep, exposed, or rugged terrain; rapidly moving and/or deep water in rivers, streams, and lakes; stinging, venomous, and/or disease carrying animals, insects, or microorganisms; poisonous plants; close and unpredictable contact with wild or domestic animals and other natural or man-made hazards. Hazards (both on land and above or below water level) may not be marked or visible and weather is always unpredictable.

**Climbing.** Risks include the possibility of slipping and falling partway or to the ground; suffering burns, scratches, cuts, pinches, jolts, and other trauma; losing a grip on a climbing hold; impacting a rock face, rock wall, boulder, cable, other objects, or people; encountering loose or damaged climbing holds; equipment failure or misuse; rope abrasion and entanglement; being impacted by falling equipment or people; and experiencing a fear of heights or other phobias.

**Any recreation or physical activities.** Risks include the risk that a participant may overestimate their abilities or fitness; be inattentive; lose control and trip or fall and/or collide with others, the ground, rocks or trees, or encounter other water/terrain/road/trail hazards; not understand the functioning of (or misuse) equipment; fail to negotiate steep, uneven, or difficult terrain; not control their speed or experience equipment malfunction.

**Travel and geographic location.** Risks include the inherent hazards of driving in urban or rural environments on city, county, or state roads and highways with heavy vehicle traffic, ruts, curbs, gravel, blind curves, other road obstacles and/or careless or inattentive drivers when traveling to and from Locations. Travel to and from Locations may be affected by sudden and changing federal, state, or local health or travel advisories or limitations, such as, in the case of COVID-19 or other communicable disease, individual and varying state quarantine or testing requirements, sudden closing of state borders, restrictions on or cancellation of air, ground, or other travel into, through, or out of a Location, etc. Activities may take place in remote Locations, several hours from medical facilities, causing potential delays or difficulties in communication, transportation, evacuation, and medical care. Medical facilities may be inadequate, unavailable, or inaccessible. Although NoCo staff or contractors may have access to wireless communication devices, use of these devices in any location is unreliable and inconsistent.

**Equipment.** The risk that equipment used in activities may not fit, may be misused, or may break, fail or malfunction. This includes participant’s personal equipment, NoCo equipment, or any other equipment (whether purchased, borrowed, or rented). Participants choosing to bring and use their personal equipment (including any safety gear) assume full responsibility, along with their parent if participant is a minor, for choosing appropriate equipment and for the fit and condition of their equipment. Safety gear may prevent or lessen injuries in some instances; however, use of safety gear is not a guarantee of safety, and injury can occur even with the use of this gear.

**Judgment and decision-making.** Risks include that a NoCo staff member, contractor, co-participant or other person may misjudge a participant’s (or other’s) capabilities, health, or physical condition (including fitness level), or misjudge some aspect of weather, terrain, instruction, assistance, or medical treatment.

**Personal health and participation.** Participant’s mental, physical, or emotional condition (including any use or abuse of alcohol or prescription or non-prescription drugs), disclosed or undisclosed, known or unknown, combined with participation in the activities includes risks. Although NoCo will review participant’s submitted health and medical information, NoCo cannot anticipate or eliminate risks or complications posed by participant’s mental, physical (including fitness level), or emotional condition. **NOTE:** There are risks associated with participant’s contact with other persons, spaces, equipment or

otherwise, including the risk of a participant, staff, parent, or other persons' carrying, being infected by, or contracting SARS-CoV-2 (virus) and/or COVID-19 (resulting disease) (collectively referred to as "COVID-19") or other disease, virus, or bacteria before, during, or after a program and/or transmitting it to others, including vulnerable and at-risk populations in the program community or a participant's home community.

**Service projects.** Participating in service projects can include risks associated with activities such as building, digging, lifting, painting, construction, landscaping, and clean-up projects. Projects may include the use of tools and equipment (i.e. saws, power tools, shovels, axes, ladders) and potentially dangerous materials (paints, cleaning agents) that can cause injury resulting from use, misuse, or malfunction.

**Conduct.** Risks include the potential that the participant, or other individuals may act carelessly or recklessly.

**These and other risks may result in participants:** falling partway or falling to the ground; being struck; colliding with or impacting objects, people, equipment, or a rock face; experiencing vehicle collision, capsize, or rollover; getting caught or entangled in equipment or objects; reacting to high altitudes, weather conditions, or increased exertion; becoming lost or disoriented; suffering gastro-intestinal complications or allergic reactions; being exposed to, contracting, and/or transmitting to others life threatening human/animal/insect/other borne communicable and/or contagious diseases, such as but not limited to COVID-19 or experiencing other problems. These and other circumstances may cause heat or cold related illnesses or conditions (including hypothermia, hyperthermia, cold water immersion, frostbite, or heat exhaustion/stroke), dehydration, high altitude sickness, heart or lung complications, broken bones, paralysis or other permanent disability, mental or emotional trauma, concussions, sunburn or other burns, infections, illnesses, diseases, cuts or wounds or other injury, damage, death, or loss.

**I (adult participant or parent of a minor participant) agree:**

- to review all NoCo information received, complete and sign all required forms, and abide by the terms of those documents and all NoCo rules or other policies, including new policies developed in light of COVID-19 identified in our communications, on our website, or otherwise. **I (for myself and, if I am a parent, for and on behalf of my participating minor child) further agree and consent to all participant screening, contact tracing, or other procedures, requested or required before, during, and/or after the NoCo program, whether by government authorities or by NoCo, its contractors, or other individuals or businesses with whom participant comes in contact;**
- NoCo representatives are, and have been, available should I have further questions about the activities, associated risks, or other issues;
- to disclose to NoCo representatives any mental, physical, or emotional condition/s or limitation/s which might affect participant's ability to participate, and represent that participant is fully capable of participating without causing harm to himself/herself or others;
- the information provided above or otherwise is not complete, other unknown or unanticipated activities, risks, and outcomes may exist, and NoCo cannot assure participant's safety or eliminate any of the risks. At all times, participants share in the responsibility for their own well-being and the well-being of the group;
- **if participant is borrowing, renting, or purchasing new or used equipment from NoCo, the equipment comes "AS-IS," and NoCo disclaims all warranties, express or implied (including any conditions of merchantability or fitness for a particular purpose) with regard to the equipment;**
- NoCo contracts with individuals/organizations that are independent contractors (not their employees or agents) to provide some of the services and activities participants may engage in. NoCo does not supervise or control these contractors and is not legally liable or responsible for their conduct;
- **Participant is voluntarily participating with knowledge of the risks. Therefore, participant (and parent of a minor) assume and accept full responsibility for participant, for the inherent and other risks (known and unknown, identified or not) of the activities and for any injury, damage, death, or other loss suffered by participant (and parent of a minor) resulting from those risks, including the risk of participant's own negligence or other misconduct. Participant/parent further agree to assume and accept any increased risks to the participant, parent, or others, related to participant participating in NoCo programming in the midst or wake of the COVID-19 Pandemic.**

#### **RELEASE AND INDEMNITY AGREEMENT:**

**Please read carefully. This Release and Indemnity Agreement contains a surrender of certain legal rights. I (adult participant, or parent for myself and for and on behalf of my participating minor child) agree as follows:**

**1) to release and agree not to sue NoCo Climbing Guides, LLC or its owners, members, managers, officers, directors, employees, agents, representatives, volunteers, and all affiliated persons or entities, and its independent contractors (collectively the "Released Parties"), with respect to any and all claims, liabilities, suits, or expenses (including attorneys' fees and costs) (collectively "claim" or "claim/s") for any injury, damage, death, or other loss in any way connected with my/my child's enrollment or participation in the activities. I understand I agree here to waive all claim/s I or my child may have against the Released Parties, bind my/my child's estate and any family member/heir/other party bringing claim/s, and agree that neither I, my child, nor anyone acting on my or my child's behalf, will make a claim or file a lawsuit against the Released Parties as a result of any injury, damage, death, or other loss suffered by me or my child;**

**2) to defend and indemnify ("indemnify" meaning protect by reimbursement or payment) the Released Parties with respect to any and all claim/s brought by or on behalf of me, my participating child, my spouse, my/my child's other family member/s, heir/s or estate, a co-participant, or any other person or entity for any injury, damage, death, or other loss in any way connected with my/my child's enrollment or participation in the activities, including but not limited to, any claim/s brought by a medical care provider, insurer, or other third party as a result of medical or other care or services provided to the participant, including transportation and evacuation costs.**

**This Release and Indemnity Agreement includes claim/s of or resulting from the Released Parties' negligence (but not any of their gross negligence or willful or wanton misconduct) and includes claim/s for personal injury or wrongful death (including claim/s related to emergency, medical, drug, and/or health issues, response, assessment or treatment), property damage, loss of consortium, breach of contract, or any other claim.**

**OTHER PROVISIONS:**

**I (adult participant or parent of a minor parent) agree** that Colorado law (without regard to its “conflict of laws” rules) governs this Document, any dispute I or my child have with the Released Parties, and all other aspects of my or my child’s relationship with the Released Parties, contractual or otherwise, and agree that any lawsuit or other legal proceeding must be filed or entered into only in Larimer County, Colorado, which shall be the sole jurisdiction and venue for any such proceeding. I agree to first attempt to settle any dispute (not settled by discussion) through mediation before a mutually acceptable Colorado mediator.

Media Release. I hereby consent to NoCo taking photographs, video, and other images of me or my child and agree that such images may be published or otherwise used by NoCo for advertising, promotion, publicity, or any other legitimate business purpose, without compensation to me or to my child.

**This Document is intended to be interpreted and enforced to the fullest extent allowed by law. If any portion of this Document is deemed unlawful or unenforceable, it shall not affect the remaining provisions, and those remaining provisions shall continue in full force and effect.**

**Adult participant or parent of a minor participant agree:** I have carefully read, understand, and voluntarily sign this Document and acknowledge that it shall be effective and legally binding upon me, my spouse, participating minor child, and other children, and parent’s/participant’s other family members, heirs, executors, representatives, subrogees, assigns, and estate. Adult participant or parent of a minor participant must complete the information and sign below.

**I understand my signature is valid and legally binding whether I choose to electronically sign or manually sign a printable version of this Document.**

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Participant Signature (Parent please print name for minor)                      /Date    /Print Name Here    /Participant Birthdate

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Parent/Guardian Signature    /Date    /Print name here