

## **BTI WHITEWATER ASSUMPTION OF RISK, WAIVER, RELEASE AND INDEMNITY AGREEMENT**

**NO ONE WILL BE ALLOWED TO RENT EQUIPMENT OR USE BTI WHITEWATER SERVICES WITHOUT SIGNATURE AND RETURN OF THIS AGREEMENT; READ ALL PAGES OF THIS AGREEMENT CAREFULLY AND ONLY SIGN IF YOU UNDERSTAND AND AGREE TO THE PROVISIONS HEREIN. A SEPARATE FORM MUST BE COMPLETED AND SIGNED FOR EACH EQUIPMENT RENTER/PARTICIPANT, WHETHER ADULT OR CHILD. A SIGNATURE FOR A CHILD CAN ONLY BE GIVEN BY A PARENT OR COURT APPOINTED LEGAL GUARDIAN, OR BY AN ACCOMPANYING ADULT PROVIDING US WITH A COPY OF A CURRENT NOTARIZED AUTHORIZATION TO ACT FROM THE CHILD'S PARENT OR LEGAL GUARDIAN. ALL CHILDREN MUST BE ACCOMPANIED AND SUPERVISED BY AN ADULT OTHER THAN A BTI WHITEWATER STAFF PERSON.**

In consideration of being allowed by **Butts Tubes, Inc., d/b/a BTI Whitewater**, to participate in water sport and/or white water activities and/or being provided with related recreational equipment or services, **I, FOR MYSELF or FOR THE MINOR IDENTIFIED BELOW FOR WHOM I AM THE PARENT OR LEGAL GUARDIAN, OR HAVE A CURRENT NOTARIZED AUTHORIZATION TO ACT FROM THE CHILD'S PARENT OR LEGAL GUARDIAN**, hereby represent, acknowledge and agree as follows:

**1. Acknowledgement of Nature of Activities and Assumption of Risk:** I am aware without the necessity of being advised that participation in water sport and/or white water activities poses substantial risk of injury or death. I understand such risk may result from conditions which include, but are not limited to: (1) depth of water and strong, changing or unpredictable currents; (2) the actions of others using the water; (3) limitations or failure of equipment, or operator failure or error in using such equipment; (4) wind, lightning or other adverse weather conditions; (5) personal limitations of strength, endurance, balance; (6) an inability to swim or stay afloat, or inability to remain calm and react reasonably to a crisis; (6) the occurrence of a collision, capsizing, sinking or other hazard resulting in wetness, injury, exposure, hypothermia and/or drowning; (8) an inability to deal in the absence of supervision or past experience with an event or activity; (9) the presence of insects, marine life, rocks, shoals, sandbars (hidden or otherwise) and other features of the waterway; (10) heat or sun, producing dehydration, sunburn, or sunstroke; (11) fatigue, chill and/or dizziness; (12) and potential delay in rescue or medical treatment should I become involved in some form of crisis.

**2. Express Representation of Individual Capacity and Assumption of Risk:** By signing this document I am representing that I am 18 years of age or older, and that I and/or the minor for whom I am signing is fully capable of engaging in water sport and/or white water activities with no physical, emotional or mental incapacity, or special needs, that should limit or impair my ability or that of the identified child to participate safely, knowing the nature of those activities and the risks associated with the same. I further acknowledge that while the staff of BTI Whitewater will provide general instructions for my use of any equipment rented to me, I acknowledge that BTI Whitewater is not responsible for providing training rendering me or any minor child safe and expert in practices on a river or other waterway, and I represent my present ability, and that of any minor child, by prior training and experience to participate in any water sport and/or white water activities in a safe and knowledge manner on a river or other waterway. My participation in any water sport and/or white water activities is fully voluntary. I hereby expressly assume for myself and the identified minor child, sole and full responsibility for any death, bodily injury, or loss or damage to personal property that may occur while participating in any water sport and/or white water activities sponsored, staffed, conducted or held by BTI Whitewater.

**3. EXPRESS WAIVER, RELEASE and INDEMNITY:** I hereby, on behalf of myself and/or the minor child identified herein, expressly waive and release Butts Tubes, Inc d/b/a BTI Whitewater, its stockholders, directors, officers, agents, employees, and other staff and contracted labor, its insurers and bonding carriers, from any and all liabilities, claims, demands, and causes of action for money or other compensation, or any other form of relief, for death, injuries or other damages resulting or arising from my participation, or that of the identified minor child, in any water sport event or activity sponsored, staffed, conducted or held by BTI Whitewater, or resulting or arising from my rental of any equipment from BTI Whitewater, and whether or not the death, injury or other damages are alleged, in whole or in part, to be the consequence of the alleged negligence, gross negligence and/or willful or wanton conduct of any person. I further agree that notwithstanding the foregoing release, if as a consequence of any participation in water sport or white water activities by myself or the minor child identified below, or as a consequence of the rental of equipment from BTI Whitewater, any legal claim or cause of action should be brought against Butts Tubes, Inc d/b/a BTI Whitewater, its stockholders, directors, officers, agents, employees, and other staff and contracted labor, its insurers and bonding carriers, I shall fully indemnify, defend and hold harmless said entities or persons from such legal claim or cause of action, and said indemnity obligation shall not be dischargeable in bankruptcy.

**4. ACKNOWLEDGEMENT AND ACCEPTANCE OF FURTHER BAR OF LIABILITY UNDER WEST VIRGINIA WHITEWATER RESPONSIBILITY ACT (WEST VIRGINIA CODE SECTION 20-3b-5):** In addition to, and not in lieu of, the aforesaid provisions of Express Waiver, Release and Indemnity set forth in paragraph 3 hereinabove, I also acknowledge and agree on behalf of myself, and the minor child identified herein, the specific applicability of the West Virginia Whitewater Responsibility Act which bars the liability of licensed commercial whitewater outfitter or commercial whitewater guides for damages or injuries sustained by participants, consistent with the provisions of said act. The application of this statute in connection with bar of liability shall be made regardless of whether participation occurs on water ways within or outside the State of West Virginia.

**5. ACKNOWLEDGEMENT AND ACCEPTANCE OF SPECIFIC DUTIES AS A PARTICIPANT:** I understand that I and/or the minor child identified herein have a duty as a participant to act in the manner of a reasonably prudent person when engaging in any water sport or white water activities sponsored, staffed, conducted or held by BTI Whitewater, or when renting any equipment for such activities. I specifically understand, consistent with governing law, that I or the minor child identified herein **CANNOT**:

a. Participate in an event or activity while intoxicated or under the influence of mood or physically altering substances, whether legal or illegal.

b. Fail to advise a BTI Whitewater guide or other representative of a medical condition that may require the application of a specific drug in the event of a crisis, and where that drug may be found on the participant.

**PLEASE READ CAREFULLY BOTH SIDES OF THIS AGREEMENT**

c. Engage in any conduct which willfully or negligently causes injury or property damage to one's self or any other person.

d. Fail to comply with safety or other instructions from the staff of BTI Whitewater.

e. Fail to inform the nearest available staff of BTI Whitewater of any incident occurring which impedes or threatens the health, safety or welfare of any person.

6. **PERMISSION FOR USE OF PUBLICITY ITEMS:** I hereby give permission to BTI Whitewater to use for publicity, advertising or other reasonable commercial purpose any photos, slides, films or other media reflecting my image, voice or words, or that of the minor child identified herein.

7. **CHOICE OF LAW AND FORUM:** In the event of any dispute or issue concerning the interpretation or enforcement of this agreement, or concerning any alleged claim arising from my participation, or that of any minor child identified herein, in any water sport and/or white water activity sponsored, staffed, conducted or held by BTI Whitewater, I agree that the laws of the Commonwealth of Virginia shall govern, and any legal action conducted in connection therewith shall be conducted within a Virginia State Court in Loudoun County, Virginia. I hereby expressly disclaim and waive, on behalf of myself and the minor child identified herein, any application of Federal maritime law to any issue or claim associated with the participation of myself and/or the minor child identified herein. This paragraph shall not be read as inconsistent with or precluding the application of the bar of liability under West Virginia Code Section 20-3B-5, as aforesaid.

**ALL OF THE FOLLOWING BLANKS MUST BE LEGIBLY FILLED IN. IF NOT APPLICABLE, STATE "N/A"**

PRINT NAME OF PARTICIPANT: \_\_\_\_\_

AGE OF PARTICIPANT: \_\_\_\_\_ PLEASE NOTE, YOU WILL BE REQUESTED TO SHOW YOUR DRIVER'S LICENSE TO VERIFY YOUR AGE IF THERE IS ANY QUESTION ABOUT WHETHER YOU ARE AT LEAST AGE 18.

RESIDENCE ADDRESS AND ZIP CODE OF PARTICIPANT: \_\_\_\_\_

HOME PHONE WITH AREA CODE: \_\_\_\_\_ EMAIL ADDRESS: \_\_\_\_\_ (WE DO NOT SELL OR TRANSFER EMAIL ADDRESSES)

I HAVE READ AND UNDERSTAND THE DUTIES OF A PARTICIPANT: YES \_\_\_\_\_ NO \_\_\_\_\_ (CHECK ONE)

I HAVE MEDICATIONS ON MY PERSON FOR USE IN A CRISIS AS FOLLOWS: \_\_\_\_\_

IF PARTICIPANT IS AGE 18 OR OVER, SIGN AND DATE HERE AND IGNORE REMAINDER OF THIS FORM

\_\_\_\_\_  
SIGNATURE DATE

IF PARTICIPANT IS NOT AGE 18 OR OVER, COMPLETE ALL OF THE FOLLOWING:

PRINT NAME OF ACCOMPANYING AND SUPERVISING ADULT: \_\_\_\_\_

PRINT NAME, RESIDENCE ADDRESS, ZIP CODE AND HOME PHONE NUMBER OF PARENT, LEGAL GUARDIAN OR AUTHORIZED ADULT SIGNING THIS FORM: **(PLEASE NOTE, THE ONLY "LEGAL GUARDIAN" WHO CAN SIGN IS ONE WHO HAS BEEN FORMALLY APPOINTED BY AN ORDER OF COURT. THE ONLY "AUTHORIZED ADULT" IS AN ADULT WHO HAS IN HAND A COPY TO GIVE US OF A NOTARIZED DOCUMENT SIGNED BY THE PARENT OR LEGAL GUARDIAN WHICH CLEARLY AUTHORIZES THE ADULT TO SIGN AGREEMENTS SUCH AS THESE ON BEHALF OF THE CHILD):**

\_\_\_\_\_  
PRINT NAME

\_\_\_\_\_  
ADDRESS

\_\_\_\_\_  
PHONE NUMBER WITH AREA CODE

\_\_\_\_\_  
SIGNATURE

DATE

**PLEASE READ CAREFULLY BOTH SIDES OF THIS AGREEMENT**