

Kinetic Adventure Group

RELEASE OF LIABILITY, WAIVER OF CLAIMS, ASSUMPTION OF RISK, COVENANT NOT TO SUE AND HOLD HARMLESS AGREEMENT

What you are about to read and are requested to sign is a waiver and release of liability. Upon signing it, you will give up your right to sue 5326 Consultants, Inc. (dba Kinetic Adventure Group) ("KAG") or anyone associated with KAG for injuries or losses you suffer while using KAG facilities or while participating in activities at KAG facilities, including but not limited to facilities at 820 West 41st Street, Miami Beach, Florida 33140.

Please take your time and read this agreement very carefully. When you are certain that you understand the importance of each paragraph, sign your initials in the space provided. Sign the document only after you have read and understand everything. If you have any questions about the agreement, consult your attorney. Thank you for your attention to this matter.

YOU WILL NOT BE ALLOWED TO PARTICIPATE IN ANY ACTIVITIES WITH KAG OR AT FACILITIES FOR KAG ACTIVITIES WITHOUT THIS SIGNED WAIVER.

I UNDERSTAND THAT SIGNING THIS DOCUMENT WILL PREVENT ME, MY HEIRS, EXECUTORS, DEPENDENTS, BENEFICIARIES AND ASSIGNS FROM SUING KAG, ITS OWNERS, OFFICERS, DIRECTORS, MEMBERS, EMPLOYEES, SUBCONTRACTORS, VENDORS, AGENTS, OR GUESTS FOR ANY INJURIES, INCLUDING DEATH AND PARALYSIS, OR DAMAGES THAT I MIGHT RECEIVE WHILE PARTICIPATING IN ANY ACTIVITIES WITH KAG OR AT KAG FACILITIES.

_____ (Initial here when read and understood)

_____ **1. RISKS**

I understand that there is a significant risk of serious physical injury, paralysis, death, and other damages inherent in the adventure program with at KAG and vendor facilities. **These risks and hazards can include, but are not limited to,** flying on or skydiving from an aircraft; shooting and being shot at with simulated-rounds from simulated weapons; donning, doffing, or wearing helmets, vests, or other equipment related to simulated shooting activities; boarding, riding on, or disembarking from a boat or similar vessel; riding in vehicles provided by KAG; participating in activities at the offices of KAG; walking and conducting activities on the streets of Miami Beach and other parts of Miami; or participating in dinners or other activities while in Miami during the KAG adventure activities or weekend, whether or not these activities are sponsored by KAG.

I further understand that some KAG activities may be conducted without staff supervision or observation and that I may encounter additional risks during that time. Injury or death can arise from errors in judgment, from lack of training or information, from the negligence of me, employees, vendors, or agents of KAG or other parties, as well as the risks normally associated with athletic, adventure, or other high-risk endeavors. There is no way to eliminate the risk of serious harm or death. I understand that my use of KAG facilities and any instruction or knowledge I obtain at those facilities IS NOT necessarily sufficient to prepare me for the dangers and risks activities I am undertaking or prevent all possibilities of injury or death stemming from these activities.

_____ **2. I ASSUME ALL RISKS.**

I CERTIFY THAT I UNDERSTAND THAT THE KAG ADVENTURE PROGRAM WILL EXPOSE ME TO A HIGH RISK OF INJURY OR ACCIDENT. I KNOWINGLY AND VOLUNTARILY ASSUME ALL RISKS INCLUDING BUT NOT LIMITED TO THOSE ENUMERATED IN THIS DOCUMENT, WHETHER KNOWN OR UNKNOWN, OF INJURY, ILLNESS, DEATH OR DAMAGE OF WHATEVER KIND ARISING OUT OF MY USE OF KAG OR KAG VENDOR FACILITIES OR EQUIPMENT OR MY PARTICIPATION IN ANY ACTIVITY AT KAG FACILITIES OR OTHER KAG ACTIVITIES.

_____ **3. I WAIVE AND RELEASE ALL CLAIMS.**

I recognize that KAG could not offer its activities without obtaining a release of liability. In consideration of, and part payment for the right to use KAG's facilities or participate in KAG activities, I RELEASE KAG AND ANYONE ASSOCIATED WITH KAG, INCLUDING WITHOUT LIMITATION ITS OWNERS, OFFICERS, DIRECTORS, STAFF, INSTRUCTORS, MEMBERS, AGENTS, SUBCONTRACTORS, VENDORS, GUESTS, AND THIRD PARTIES FROM ALL LIABILITY, AND KNOWINGLY, INTENTIONALLY AND VOLUNTARILY WAIVE ALL CLAIMS, DEMANDS OR CAUSES OF ACTION OF ANY KIND WHATSOEVER, INCLUDING BUT NOT LIMITED TO ANY CLAIMS OF NEGLIGENCE (BUT EXCLUDING CLAIMS FOR GROSS NEGLIGENCE), WHICH MAY ARISE AS A RESULT OF MY USE OF KAG FACILITIES OR EQUIPMENT OR PARTICIPATION IN ANY KAG ACTIVITY.

_____ **4. I WILL INDEMNIFY KAG.**

In consideration of, and in part payment for the right to use KAG's facilities or participate in KAG activities, I agree to defend, protect, INDEMNIFY, and hold harmless KAG, its owners, officers, directors, members, instructors, employees, subcontractors, vendors, agents, and guests from and against any and all claims, suits, actions at law or in equity, for damages or other relief and against any liability of any nature, together with attorneys' fees and costs incurred, that may arise out of my use of KAG property or facilities or participate in KAG activities, INCLUDING BUT NOT LIMITED TO INJURIES ARISING FROM MY VIOLATION OF KAG

RULES. I agree to pay the reasonable attorneys' fees and all other costs of all parties if I bring a suit for injuries suffered at KAG and that action is unsuccessful, in whole or in part. Additionally, in consideration of, and part payment for my right to participate in a KAG activity, I EXPRESSLY AGREE NOT TO SUE KAG, OWNERS, OFFICERS, DIRECTORS, STAFF, INSTRUCTORS, MEMBERS, AGENTS, SUBCONTRACTORS, VENDORS, GUESTS, AND THIRD PARTIES FROM ALL LIABILITY AND HEREBY WAIVE ALL CLAIMS AND LIABILITIES AGAINST KAG AND THOSE PARTIES INCLUDING, WITHOUT LIMITATION, CLAIMS FOR NEGLIGENCE ARISING FROM MY USE OF KAG FACILITIES OR EQUIPMENT OR PARTICIPATION IN ANY KAG ACTIVITY.

_____ **5. I AGREE TO ABIDE BY ALL KAG RULES.**

I agree to abide by all KAG rules contained in written form as well as verbal directions that may be given by KAG staff (including, but not limited to, employees, subcontractors, vendors). I MAY NOT USE KAG FACILITIES OR PARTICIPATE IN KAG ACTIVITIES IF I AM UNDER THE INFLUENCE OF ALCOHOL OR OTHER DRUGS, PRESCRIPTION OR OTHERWISE, OR AM OTHERWISE IMPAIRED.

_____ **6. I am physically qualified to participate.**

I certify that I have no physical limitations or medical conditions that would impair my ability to fully and safely use KAG facilities or participate in any KAG activities. I agree to inform KAG of any conditions that may have any effect on my ability to fully and safely use KAG facilities, so that a determination can be made as to the proper course of action.

_____ **7. Other provisions.**

This agreement constitutes the complete and sole agreement between you and KAG, its owners, officers, directors, instructors, employees, subcontractors, vendors, agents, members, and guests and all others associated with KAG. Evidence of any other agreements, whether oral or in writing, are void and inadmissible and unenforceable in a court of law, arbitration, or other dispute resolution proceeding.

INDIVIDUAL OWNERS, OFFICERS, DIRECTORS, STAFF, INSTRUCTORS, MEMBERS, AGENTS, SUBCONTRACTORS, VENDORS, GUESTS, AND THIRD PARTIES HAVE NO AUTHORITY OR POWER TO ALTER THE TERMS OF THIS AGREEMENT, EITHER ORALLY OR IN WRITING. This agreement covers my use of KAG facilities as well as my participation in all KAG activities and all associated events.

THE LAWS OF THE STATE OF FLORIDA SHALL GOVERN THIS AGREEMENT. VENUE FOR ANY ACTION SHALL BE MIAMI-DADE COUNTY, FLORIDA.

ARBITRATION AGREEMENT AND WAIVER OF RIGHT TO JURY TRIAL

_____ I VOLUNTARILY WAIVE ANY RIGHT I MAY HAVE TO A TRIAL BY JURY IN ANY ACTION INVOLVING KAG AND ANYONE ASSOCIATED WITH KAG, INCLUDING WITHOUT LIMITATION ITS OWNERS, OFFICERS, DIRECTORS, STAFF, INSTRUCTORS, MEMBERS, AGENTS, SUBCONTRACTORS, VENDORS, GUESTS, AND THIRD PARTIES, WHERE THE ACTION IS IN ANY WAY RELATED TO OR ARISING FROM MY USE OF KAG FACILITIES OR EQUIPMENT OR PARTICIPATION IN KAG ACTIVITIES.

A. Mediation

The parties agree that any and all disputes, claims or controversies arising out of or relating to this Agreement shall be submitted to an arbitrator of the choice of KAG, or its successor, for mediation, and if the matter is not resolved through mediation, then it shall be submitted to the arbitrator of the choice of KAG, or its successor, for final and binding arbitration as set forth below.

B. Arbitration

Any dispute, claim or controversy arising from my involvement in any activity with or use of KAG facilities or KAG activities, including the determination of the scope or applicability of this agreement to arbitrate, shall be determined by arbitration in Miami-Dade County, Florida before one arbitrator. The arbitration shall be administered by an arbitrator selected by KAG. Judgment on any Award may be entered in any court having jurisdiction. This clause shall not preclude parties from seeking provisional remedies in aid of arbitration from a court of appropriate jurisdiction.

_____ I HAVE READ AND UNDERSTAND THIS ENTIRE AGREEMENT AND I AM AWARE THAT BY SIGNING THIS AGREEMENT I AM AGREEING TO USE AN ARBITRATOR OF KAG'S CHOICE AND ARBITRATION PROCESS SET FORTH IN THIS AGREEMENT.

_____ 8. PHOTO RELEASE AND PERMISSION TO USE MY LIKENESS

I agree that KAG and its affiliates and agents may take photographs and videos (including audio recording) of me ("Images") while using KAG facilities or at KAG activities. I grant KAG and its affiliates and agents permission and license to use the Images in perpetuity in any medium or format on any platform and for any purpose. I hereby irrevocably authorize KAG and its affiliates and agents to edit, alter, copy, exhibit, publish, or distribute the Images for any lawful purpose. In addition, I waive any right to inspect or approve the finished product wherein my likeness, or the likeness of any child for which I am responsible, appears. Additionally, I waive any right to royalties or other compensation arising or related to the use of the Images. This applies without limitation and without further compensation, consent, or permission from me.

_____ 9. Severability

If any provision of this agreement or its application to any person or circumstance is held invalid or void, the remainder of the agreement or its application to other persons or circumstances is not affected.

I AM FULLY AWARE OF THE CONTENTS OF THIS AGREEMENT AND RELEASE AND HAVE READ AND UNDERSTAND ALL OF THE TERMS. THE TERMS OF THIS AGREEMENT BIND ME, MY FAMILY (INCLUDING BUT NOT LIMITED TO SPOUSES AND DOMESTIC PARTNERS), HEIRS, EXECUTORS, ADMINISTRATORS, DEPENDENTS, BENEFICIARIES, SUCCESSORS, AND ASSIGNEES.

I recognize that if I have any questions regarding my waiver of rights, I should consult an attorney.

Participant's name (please print):

Birth Date:

Participant's signature:

Date:

Home Phone Number:

Work Phone Number:

Email:

Home Address: