

PARTICIPANT AGREEMENT, RELEASE AND ASSUMPTION OF RISK

In consideration of the services of Genesee Entertainment, dba PolarWave Snowtubing, their agents, owners, officers, volunteers, participants, employees, and all other persons or entities acting in any capacity on their behalf (hereinafter collectively referred to as "PWST"), I hereby agree to release, indemnify, and discharge PWST, on behalf of myself, my spouse, my children, my parents, my heirs, assigns, personal representative, and estate as follows:

- 1. I acknowledge that my participation in snow tubing activities entails known and unanticipated risks that could result in physical or emotional injury, paralysis, death, or damage to myself, to property, or to third parties. I understand that such risks simply cannot be eliminated without jeopardizing the essential qualities of the activity.

The risks include, among other things: slipping and falling; hidden obstacles by snow including crevasses, ice and snow cornices, tree wells, tree stumps, creeks rocks and boulders, below the snow surface; loss of control; loss or damage to equipment being used; exposure to cold including hypothermia, frostnip, frostbite, and exhaustion; collision with other tubers and/or objects; my own physical condition, and the physical exertion associated with this activity; steepness of slopes, snow depth, instability of snow pack or varying and difficult weather.

Furthermore, PWST employees have difficult jobs to perform. They seek safety but they are not infallible. They might be unaware of a participant's fitness or abilities. They might misjudge the weather or other environmental conditions. They might misjudge whether the terrain is safe for travel or when an avalanche may occur. They may give incomplete warnings or instructions, and the equipment being used might malfunction.

- 2. I expressly agree and promise to accept and assume all the risks existing in this activity. My participation in this activity is purely voluntary, and I elect to participate in spite of the risks.
- 3. I hereby voluntarily release, forever discharge, and agree to indemnify and hold harmless PWST from any and all claims, demands, or causes of action, which are in any way connected with my participation in this activity or my use of PWST's equipment or facilities, **including any such claims which allege negligent acts or omissions of PWST.**
- 4. Should PWST or anyone acting on their behalf, be required to incur attorney's fees and costs to enforce this agreement, I agree to indemnify and hold them harmless for all such fees and costs.
- 5. I certify that I have adequate insurance to cover any injury or damage I may cause or suffer while participating, or else I agree to bear the costs of such injury or damage myself. I further certify that I am willing to assume the risk of any medical or physical condition I may have.

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(continued)

- 6. In the event that I file a lawsuit against PWST, I agree to do so solely in the state of New York, and I further agree that the substantive law of that state shall apply in that action without regard to the conflict of law rules of that state. I agree that if any portion of this agreement is found to be void or unenforceable, the remaining portions shall remain in full force and effect.

By signing this document, I acknowledge that if anyone is hurt or property is damaged during my participation in this activity, I may be found by a court of law to have waived my right to maintain a lawsuit against PWST on the basis of any claim from which I have released them herein.

I have had sufficient opportunity to read this entire document. I have read and understood it, and I agree to be bound by its terms.

Signature of Participant: _____

Print Name: _____

Address: _____

Phone: _____ Date: _____

PARENT'S OR GUARDIAN'S ADDITIONAL INDEMNIFICATION (Must be completed for participants under the age of 18)

In consideration of: _____

(print minor's name) ("Minor") being permitted by PWST to participate in its activities and to use its equipment and facilities, I further agree to indemnify and hold harmless PWST from any and all claims which are brought by, or on behalf of Minor, and which are in any way connected with such use or participation by Minor.

Signature of Parent or Guardian: _____

Print Name: _____

Address*: _____

(*Address needed only if parent/guardian will not be present with minor at Polarwave)

Phone: _____ Date: _____