

# OURAY MOUNTAIN TRAIL RUN

## LIABILITY RELEASE, WAIVER AND INDEMNIFICATION AND EXPRESS ASSUMPTION OF RISK

### PARTICIPANTS

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**THIS IS A LEGALLY BINDING RELEASE, WAIVER, INDEMNIFICATION OF LIABILITY, AND EXPRESS ASSUMPTION OF RISK.** Please read it carefully, fill in all blanks and initial each paragraph before signing.

#### Releasor

\_\_\_\_1. I, \_\_\_\_\_ (“Releasor”) hereby affirm that I have read this document in its entirety. By my signature below and by initialing each paragraph, I agree to each and every term and condition of this document.

#### Released Parties

\_\_\_\_2. “Released Parties” refers to the Competition, Trail Run (both as defined below), Ouray Mountain Trail Run, Inc. (“OMTR”), the City of Ouray, Ouray County, Eric R. Jacobson, the United States Forest Service and/or the United States (collectively, “Released Parties”), and any of their affiliates, agents, employees, independent contractors, officers, directors, shareholders, agents, insurers, attorneys, heirs, predecessors, successors, administrators, assigns, and any other person or entity in any way associated with any of the Released Parties or the Competition or Trail Run.

#### Trail Run

\_\_\_\_3. Competition means the Ouray Mountain Trail Run, to be held October 3, 2009 in the Grand Mesa, Uncompahgre and Gunnison National Forest, in the Uncompahgre Gorge Recreational Use Area (UGRUA) and on City of Ouray property, Ouray County property and USFS lands, in and around, Ouray, Colorado (the “Competition”), including all preparation and trail construction for the Competition and/or all other activities at the Ouray Mountain Trail Run (“OMTR”), both before and after the Competition, which are related in any way with the Competition or the Trail Run.

#### Risks of Participation

\_\_\_\_4. I am aware that participating in the activities associated with the Trail Run and the Competition involve substantial risks which are inherent in an outdoor trail running environment. These risks include all risks inherent in any running or trail running activity, including the potential breaking or collapse of dirt, rock, trail and trail surfaces, the partial or complete failure of trail surfaces, and the negligence of persons assisting with or participating in the Trail Run and Competition. The activities associated with the Competition and the Trail Run (the “Activity”) are extremely strenuous and physically demanding. I am unaware of any physical or mental condition that would (a) prevent me from participating safely in the Activity or (b) endanger my health or safety, or the health and safety of others, due to my participation in the Activity. I attest that I am physically fit and competent to participate in the Activity, and that all of my questions regarding the Activity have been answered to my satisfaction.

\_\_\_\_5. I understand the risks and hazards of the Activity, which include but are not limited to, THE RISK OF SERIOUS PERSONAL INJURIES, PARALYSIS, AND DEATH. I understand that the hazards and risks of the Activity include, but are not limited to: the breaking or collapse of rock, dirt and trail surfaces and the partial or complete failure of these surfaces; the failure of man-made structures built for the Activity; head injuries; sprained or broken bones; equipment failure; injury due to the negligence of myself and/or others; and exposure to extreme cold, rain or snow, thunderstorms or lightning. I understand that the aforementioned hazards and risks are described by way of example only, and that there are numerous other hazards and risks inherent in the Activity to which I may be exposed.

**Release and Consideration**

\_\_\_\_6. AS LAWFUL CONSIDERATION FOR MY BEING ALLOWED TO PARTICIPATE IN THE ACTIVITY:

\_\_\_\_a. I, on behalf of myself, my family, heirs, successors, assigns, and anyone claiming any interest through me, hereby KNOWINGLY, INTENTIONALLY AND VOLUNTARILY WAIVE, RELEASE, INDEMNIFY AND AGREE TO HOLD HARMLESS THE RELEASED PARTIES FROM ANY AND ALL ACTIONS, SUITS, CLAIMS, DAMAGES, AND LIABILITY (INCLUDING ATTORNEYS' FEES AND COSTS), THAT I, my family, heirs, successors, assigns, and anyone claiming any interest through me, MAY HAVE FOR ANY DAMAGE, INJURY, PARALYSIS, LOSS, OR DEATH TO MYSELF OR ANY OTHER PERSON OR PROPERTY ARISING OUT OF MY PARTICIPATION IN THE ACTIVITY, whether such damage, injury, paralysis, loss, or death results from NEGLIGENCE of any of the Released Parties or from some other cause. I hereby specifically release any and all claims my heirs, descendants, or others claiming through me may have for wrongful death, whether brought pursuant to C.R.S. § 13-21-202, or otherwise. I hereby assert that my participation in the Activity is voluntary and I knowingly assume all risks.

\_\_\_\_b. I understand and agree the Released Parties may NOT be held liable or responsible in any way to me or my family, heirs, successors, assigns, or anyone claiming any interest through me, for any injury, death, or other damage that may occur as a result of my participation in the Activity or as a result of the negligence of any participant or party, including the Released Parties, whether passive or active. By requiring the right to indemnification, none of the Released Parties are in any way waiving or intending to waive the limitations on liability which are provided to some of the Released Parties and their officials or employees under the Colorado Governmental Immunity Act, C.R.S. 24-10-101, et seq., as amended.

\_\_\_\_c. I hereby personally assume all risks, whether foreseen or unforeseen, in connection with the Activity, for any harm, injury or damage that may befall me while I participate in the Activity, including the risk of negligence of any party or participant, including the Released Parties.

\_\_\_\_d. I hereby accept full responsibility for and waive all claims and causes of action for any and all damage, injury, paralysis, or death arising out of my participation in the Activity. I understand and explicitly agree that neither I, my family, heirs, successors, assigns, or anyone claiming any interest through me, will bring any legal action whatsoever against the Released Parties as a result of any such damage, injury, paralysis, loss, or death to myself or any other person or property that arises out of my participation in the Activity. I hereby agree to hold harmless and indemnify the Released Parties for any and all claims, including attorneys' fees and costs, which may be brought against the Released Parties by anyone claiming to have been injured as a result of any injury, including death, to me or my property which may occur as a result of my participation in the Activity.

\_\_\_\_\_e. By signing this document, it is my intent to release, waive, hold harmless, and indemnify all of the Released Parties from all liability, claims or causes of action connected with my participation in the Activity (including, but not limited to the negligence of the Released Parties, whether passive or active), and to personally assume all risk of injury or death. I UNDERSTAND THAT THE TERMS OF THIS DOCUMENT ARE CONTRACTUAL AND NOT A MERE RECITAL AND UNDERSTAND THAT I WOULD NOT BE PERMITTED TO PARTICIPATE IN THE ACTIVITY WITHOUT ENTERING THIS AGREEMENT. I HAVE SIGNED THIS DOCUMENT VOLUNTARILY AND OF MY OWN FREE WILL.

### **Consent to and Financial Responsibility for Medical Treatment**

\_\_\_\_\_7. I hereby consent to any hospital care or medical or surgical diagnosis or treatment which may be necessary as a result of my participation in the Activity. I am solely responsible for all applicable charges for such medical diagnosis or treatment, including evacuation and/or rescue costs, and represent that I either have insurance coverage adequate to cover any such expenses or am financially capable of paying for any such expenses.

### **Model Release**

\_\_\_\_\_8. I understand that my participation in the Activity may be photographed and promoted by the Ouray Mountain Trail Run, City and County of Ouray, and USFS and in consideration for permission to participate in the Activity, I hereby give permission to the Released Parties to use my likeness for any legal purpose whatsoever.

### **Jurisdiction, Venue, and Governing Law**

\_\_\_\_\_9. This document shall be governed by and interpreted under the laws of Colorado, without regard to conflict of laws provisions. If any lawsuit or claim is brought arising from or regarding my participation in the Activity, I agree that the exclusive jurisdiction and venue for such suit shall be the Ouray County District Court in and for the State of Colorado, and I hereby irrevocably waive any other jurisdiction or venue to which I or my estate might otherwise be entitled.

### **Severability/Construction**

\_\_\_\_\_10. If any provision of this document is held to be invalid or unenforceable, in whole or in part, by any court of competent jurisdiction, such provision shall be deemed amended to conform to the requirements of the law so as to be valid and enforceable, or if it cannot be amended without materially altering the intention of the parties, it shall be stricken and the remainder of the Agreement shall remain in full force and effect. It is the intent and purpose of this document to provide the broadest possible release of claims and causes of action in favor of the Released Parties, and any ambiguity shall be construed in light of this purpose.

### **Entire Agreement**

\_\_\_\_\_11. I understand that this is the entire agreement between myself and OMTR [and any others] their agents or employees, and that it cannot be modified or changed in any way by the representations or statements of any employee or agent of OMTR [or others] or by me.”

**Voluntary Execution/Review by Legal Counsel**

\_\_\_\_\_12. I have read and understand this liability release and express assumption of risk, and I am voluntarily signing this document on behalf of myself and my heirs. I understand that by signing this document I am waiving important legal rights on my behalf and on behalf of my family and heirs. I understand and agree that this agreement will have the effect of releasing, discharging, waiving and forever giving up my right to bring any and all lawsuits or other actions or demands against the Released Parties that I may have. I understand that this document relates to important legal rights which I have and that it is recommended that I have this agreement reviewed by legal counsel of my choice before signing this document.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Print Name, Address & Phone: \_\_\_\_\_  
\_\_\_\_\_

**FOR MINORS:**

I am the parent or legal guardian of \_\_\_\_\_, a minor child and I have read and fully understand the limits of liability provided to the Released Parties for allowing my child's participation in the Activity and I have read and understand the foregoing Liability Release, Waiver and Indemnification and Express Assumption of Risk.

Having read all of the above, I hereby consent to my child's participation in the Activity and the assumption of the risk inherent to the Activity.

Signature of Parent or Legal Guardian \_\_\_\_\_ Date: \_\_\_\_\_

Print Full Name and Child's Full Name \_\_\_\_\_

Address \_\_\_\_\_ Phone \_\_\_\_\_