

FLAGSTAFF SNOW PARK LLC

WAIVER AND RELEASE OF LIABILITY

READ CAREFULLY – THIS AFFECTS YOUR LEGAL RIGHTS

In exchange for participation in the activity of snow tubing and general snow play organized by Flagstaff Snow Park LLC, its parent, subsidiary, brother, sister, closely related affiliated companies and their officers, employees, agents, successors, assigns, and property owners (collectively hereafter "Flagstaff Snow Park LLC") and/or use of the property, facilities and services of Flagstaff Snow Park LLC, I agree for myself and (if applicable) my spouse, my estate, my heirs, my assigns, and/or the other members of my immediate and extended family (collectively hereafter "my family"), as follows:

1. **AGREEMENT TO FOLLOW DIRECTIONS.** I agree to observe and obey all posted rules and warnings, and further agree to follow any oral instructions or directions given by Flagstaff Snow Park LLC, or the employees, representatives, and/or agents of Flagstaff Snow Park LLC. I further agree to be solely responsible to explain and enforce all rules and to undertake all duties and responsibilities to educate and control my minor children, if any, while using or present on the property or facilities of Flagstaff Snow Park LLC. I further agree to make all decisions concerning said minors' participation, ability and use of said facilities and surrounding area. I agree and acknowledge that I am responsible to pay all medical bills incurred as a result to my minor child(ren) participation in the above-identified activity and waive any claim for reimbursement and/or rights of subrogation against Flagstaff Snow Park LLC.
2. **ASSUMPTION OF THE RISKS AND RELEASE.** I recognize that there are certain inherent risks associated with the above-identified activity, including but not limited to, bodily injury to myself or others resulting from improper use of snow play equipment, slippery surfaces, snowy weather, collision with others, malfunction or destruction of snow play equipment, exposure to cold weather, inability/failure to properly operate and/or stop snow play equipment (e.g., tubes do not have stopping or steering devices), presence of snow play equipment or other natural or man-made obstacles, variations in snow, steepness of terrain, icy conditions, and destruction and/or loss of personal property. I also understand that snow play conditions vary constantly because of use and changing weather. I assume full responsibility for personal injury to myself and (if applicable) to my family and further release and discharge Flagstaff Snow Park LLC, for all injury, loss or damage arising out of my or my family's use of or presence upon the facilities of Flagstaff Snow Park LLC, whether cause by the negligence or fault of myself, my family, Flagstaff Snow Park LLC's employees and/or third parties.
3. **INDEMNIFICATION.** I agree to indemnify and defend Flagstaff Snow Park LLC against all claims, causes of action, injuries, loss, damages, judgments, costs or expenses, including reimbursement of attorney's fees and other litigation costs, which may in any way arise from my or my family's use of or presence upon the facilities of Flagstaff Snow Park LLC.
4. **COVENANT NOT TO SUE.** I agree on behalf of myself and my family that I will not file a lawsuit or claim against Flagstaff Snow Park LLC related or arising from to any incident, event or other matter which is included in the terms of this Agreement; even if said lawsuit or claim arises from the negligence of Flagstaff Snow Park LLC.
5. **LIABILITY FOR DAMAGE.** I agree to be responsible for and pay all damages to the facilities of Flagstaff Snow Park LLC caused by any negligent, reckless or willful actions of me or my family.
6. **APPLICABLE LAW AND VENUE.** I agree that Arizona law shall govern the interpretation of the terms of this Agreement and any legal or equitable claims that may arise from participation in the above shall be resolved under Arizona law. I further agree that venue for determination of all such claims shall be in Coconino County, Arizona and consent to be subject to the jurisdiction in Coconino County, Arizona for any matter(s), claim(s), and/or cause(s) of action relating to my or my family's use of or presence upon the facilities of Flagstaff Snow Park LLC,
7. **NO DURESS.** I agree and acknowledge that I am under no pressure or duress to sign this Agreement and that I have been given a reasonable opportunity to review it before signing. I further agree and acknowledge that I am free to have my own legal counsel review this Agreement if I so desire. I further

(CONTINUED ON BACK OF PAGE)

agree and acknowledge that Flagstaff Snow Park LLC has offered to refund any fees I have paid to use its facilities if I choose not to sign this Agreement.

- 8. **ARM'S LENGTH AGREEMENT.** This Agreement and each of its terms is the product of an arm's length negotiation between the Parties. In the event any ambiguity is found to exist in the interpretation of this Agreement, or any of its provisions, the Parties, and each of them, explicitly reject the application of any legal or equitable rule of interpretation which would lead to a construction either "for" or "against" a particular party based upon their status as the drafter of a specific term, language, or provision giving rise to such ambiguity.

- 9. **ENFORCEABILITY.** The invalidity or unenforceability of any provision of this Agreement, whether standing alone or as applied to a particular occurrence or circumstance, shall not affect the validity or enforceability of any other provision of this Agreement or of any other application(s) of such provision, as the case may be, and such invalid or unenforceable provision shall be deemed not to be a part of this Agreement.

- 10. **DISPUTE RESOLUTION.** The parties agree to attempt to resolve any dispute arising out of or relating to this Agreement through respectful negotiations amongst the parties. If the matter is not resolved by negotiation, any controversies or disputes arising out of or relating to this Agreement will be submitted to mediation. If mediation does not successfully resolve the dispute, then said dispute shall be submitted to binding arbitration in accordance with the rules of the American Arbitration Association.

- 11. **EMERGENCY CONTACT.** In case of an emergency, I request that Flagstaff Snow Park contact the following individual: _____ (Relationship: _____) at _____ (Day), or _____ (Evening).

I HAVE READ THIS DOCUMENT, UNDERSTAND IT, AND AGREE TO BE BOUND BY ITS TERMS. I FURTHER UNDERSTAND THAT BY SIGNING THIS RELEASE, I VOLUNTARILY SURRENDER CERTAIN LEGAL RIGHTS.

Date _____, 20_____

Print Name of Participant #1 _____

Signature of Participant #1 _____

Print Name of Participant #2 _____

Signature of Participant #2 _____

***LEGAL DEPENDENT(S)/CHILD(REN)* OF PARTICIPANT(S) WHO ALSO AGREE TO THE TERMS OF THIS AGREEMENT.**

Printed Name of legal dependent/child

Signature

Printed Name of legal dependent/child

Signature

Printed Name of legal dependent/child

Signature

Printed Name of legal dependent/child

Signature

Printed Name of legal dependent/child

Signature

***Persons under age 18 are required to have an authorized parent or legal guardian read and sign this Agreement before they will be .**