

**RELEASE AND WAIVER OF LIABILITY, ASSUMPTION OF RISK, AND INDEMNITY AGREEMENT**

Maui Zipline Company, LLC

**NOTICE: THIS RELEASE AND WAIVER AFFECTS YOUR LEGAL RIGHTS.**

**PLEASE READ IT VERY CAREFULLY AND UNDERSTAND IT BEFORE INITIALING OR SIGNING IT.**

Parents/Legal Guardians should initial on behalf of participating Minors after discussing each section with them, indicating that both the Minor and the Parent/Legal Guardian agree to each section.

CUSTOMER NAME (Print): \_\_\_\_\_ If under 18, Name of Guardian: \_\_\_\_\_

ADDRESS: \_\_\_\_\_ CITY: \_\_\_\_\_

STATE: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_ PHONE #: \_\_\_\_\_

AGE: \_\_\_\_\_ DATE OF BIRTH: \_\_\_\_\_ OFFICE USE ONLY: \_\_\_\_\_

I, the above-named person, being above the age of eighteen (18) years, or the legal guardian of the above-named person who is under the age of eighteen (18) years (hereinafter referred to as "Minor") on behalf of myself, next of kin, heirs, guardians, assigns, personal representatives and estate (or those of the Minor if I am his/her Legal Guardian) and in consideration of the opportunity to participate in a Zipline experience with Maui Zipline Company, LLC (the "Company") do hereby acknowledge, promise, agree, and covenant with **Maui Zipline Company, LLC, Zip Dis Corp., Tall Boy Inc., Maui Tropical Plantation Operating Company, LLC, their respective staff, affiliated companies, owners, officers, agents, members, volunteers, employees, other participants, and owners and lessees of the Premises on which the Activity is conducted, (collectively hereinafter referred to as the "RELEASEES")** as follows:

**ACTIVITY DESCRIPTION**

Participation in the Maui Zipline Company TOUR (the "Activity") involves sliding down a suspended cable over significant heights and uneven terrain from the top of one platform to the bottom on another platform using safety harnesses and pulleys suspended on a metal cable using a trolley. During the Activity, participants will be required to walk across improved and unimproved trails, which in some cases may be slippery and will be required to climb four flights of stairs and descend one flight of stairs.

**ACKNOWLEDGMENT OF RISKS**

I fully understand and acknowledge that: (a) the Activity I have voluntarily chosen to participate in **involves risks and dangers of serious bodily injury including but not limited to permanent disability, paralysis, and death** ("Risks"); (b) there are **risks, hazards and dangerous conditions inherent in the Activity that I am about to engage in voluntarily**, including but not limited to: falling from platforms, cables and other structures, equipment malfunction including breakage of cables, tethers, pulleys and harnesses, collision with stationary objects, insects, and inclement weather and my participation in the Activity may result in injury, death, illness or disease, physical or mental, or damage to my person and property and that no amount of care, caution, instruction or expertise can eliminate this inherent danger. I understand and acknowledge accidents including but not limited to, scrapes, bruises, and rope burns can and sometimes do occur during the Activity; (c) during the Activity I may experience fatigue, extreme heat and/or dizziness, which may diminish my reaction time and that of others and may therefore increase the risk of accident; (d) changing weather, rain and/or other conditions, branches falling from trees, slippery/wet decks and stairs which I will be walking and/or traveling, my own inability to properly participate in the Activity or to follow rules and directions concerning the Activity and unforeseeable events may all contribute to the chances of accident, injury or death; (e) these Risks and dangers may be caused by my own actions or inactions, the actions or inactions of others participating in the Activity or the conditions in which the Activity takes place; (f) the description of these Risks is not complete and that there may be **OTHER RISKS or SOCIAL AND ECONOMIC LOSSES** either not known to me or not readily foreseeable at this time.

**I initial to indicate that I have read, understood, and agree to this section:** \_\_\_\_\_

**ACCEPTANCE OF RISK AND RESPONSIBILITY**

Being aware that this Activity entails risks of injury, I agree, covenant and promise, by my choice, to **accept and assume all responsibility and risk for myself, or for the Minor for whom I sign, for bodily injury, death, illness, disease or damages incurred, whether such Risks are identified herein or are not specified, as a result of my participation in the Activity.** My participation in this Activity is entirely voluntary and I elect to participate in spite of the risks.

I understand and agree that the Company reserves the right, in its sole discretion, to refuse to permit me to participate in the Activity, and that the Company may terminate my participation in the Activity, at my expense, if it believes me and/or my child to be incapable of following the instructions or meeting the safety requirements or the rigors of participating in the Activity. I specifically agree to release the Company from any liability if I am prevented from participating in the Activity for any reason whatsoever.

**I initial to indicate that I have read, understood, and agree to this section:** \_\_\_\_\_

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Maui Zipline Company, LLC

**RELEASE AND INDEMNIFICATION**

**I voluntarily release and forever discharge the Releasees from any and all liability, claims, demands, actions or rights of action**, which are related to, arise out of, or are in any way connected with my participation, or that of the Minor, in this Activity, including specifically, but not limited to, the negligent acts or omissions of the Releasees, for any and all injury, death, illness, or disease, and damage to my person and property.

**I agree, promise and covenant not to sue, assert or otherwise maintain or assert any claim** against the Releasees for any injury, death, illness or disease, or damage to my property, arising from or connected with my participation, or that of the Minor, in this activity.

I further agree, promise and covenant **I will indemnify, save and hold harmless** each of the Releasees from any and all losses, claims, actions, costs, expenses, or proceedings of any kind which may be initiated by any third person, entity or organization for its loss or damage arising out of my participation in the Activity, including reimbursement of all legal costs and reasonable attorneys' fees incurred by the Releasees in defending against any such claim, action or proceeding.

**I have read this section, and initial to show that I understand and agree:** \_\_\_\_\_

**WARRANTIES**

I hereby agree, represent and warrant that: (a) to the best of my knowledge, I am not pregnant; (b) I understand the nature of the Activity and I am, or the minor for whom I sign, physically and mentally capable of participating in the Activity; (c) neither I, nor the minor for whom I sign, has a pre-existing medical condition that could be aggravated by participating in the activity or aware of any medical conditions that could affect my safety while participating in the Activity; (d) neither I, nor the minor for whom I sign, has a fear of heights or other physical or emotional limitation which should preclude participation in the Activity; and (e) agree to follow all instructions given to me by the Company's staff while I am on the premises and while I am participant in the Activity on the premises and (f) I shall use due care and caution during the use and enjoyment of the Activity and shall immediately report to the Company any unsafe conditions or unauthorized use witnessed by the undersigned.

**I have read this section, and initial to show that I understand and agree:** \_\_\_\_\_

**PHOTOGRAPHIC RELEASE**

I hereby grant and convey unto Maui Zipline Company, LLC, all right, title and interest in and to any and all photographic images and video or audio recordings that may include my image, or the minor for whom I sign, taken during on the premises or while engaged in the Activity, and that were taken and/or made by staff of Maui Zipline Company, LLC and any of their affiliated companies.

**I have read this section, and initial to show that I understand and agree:** \_\_\_\_\_

**ACKNOWLEDGMENT OF EFFECT OF THIS RELEASE AGREEMENT**

I understand and acknowledge that by initialing and/or signing this document I have given up certain legal rights and/or possible claims which I might otherwise assert or maintain against the Releasees including specifically, but not limited to, rights arising from or claims for the acts or omissions, negligence in any degree, of the Releasees. I further acknowledge I have signed it freely and without any inducement or assurance of any nature, and I intend it to be as broad and inclusive in favor of the State of Hawaii as permitted by the laws of the State of Hawaii and that if any provision herein is held to be invalid, it is agreed that the remaining provisions shall, notwithstanding, continue in full force and effect.

**I have read this section, and initial to show that I understand and agree:** \_\_\_\_\_

**ENTIRE AGREEMENT**

I understand and agree that this agreement is made with full knowledge of the facts and legal implications of entering into such an agreement and that it cannot be modified or changed in any way by the representations or statements of any employee or agent of the Releasees, or by me. I further agree that this agreement contains the entire agreement between the parties, hereto, and that **the terms of this agreement are contractual and not mere recitals.**

**I have read this section, and initial to show that I understand and agree:** \_\_\_\_\_

My signature below indicates that I have carefully and thoroughly read this entire document or had it explained to me if I do not read or speak English, and that I understand it completely and agree to be bound by its terms.

\_\_\_\_\_  
Signature of Participant/Guardian

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Employee/Witness

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Maui Zipline Company, LLC

**Below section must be completed by Parent/Legal Guardian for any participant under the age of 18.**

**PARENT / LEGAL GUARDIAN ADDITIONAL INDEMNIFICATION**

I acknowledge that participation in the Activity involves risk of personal injury, illness or even death. I have read the above, been given the opportunity to ask questions, considered its effects, understand its content, and agree, on behalf of myself and the Minor, to the terms as stated above. I, understand the nature of the Activity and the Minor's experience and capabilities and believe the Minor to be qualified, in good health, and warrant that the Minor is fully capable of safely participating in the Activity and I expressly assume all risk of the Minor's participation, whether such risks are know or unknown to me at this time.

By signing this Release and Waiver of Liability, Assumption of Risk, and Indemnity Agreement("Waiver") and Parental Consent, I hereby voluntarily release and forever discharge the Releasees from any and all liability, claims, demands, actions or rights of action, which are related to, arise out of, or are in any way connected with the Minor's participation in this Activity, including specifically, but not limited to, the negligent acts or omissions of the Releasees, for any and all injury, death, illness, or disease, and damage to the Minor's person and property. I agree, promise and covenant to hold harmless and indemnify the Releasees for any such injury, death, illness, disease or damage. I further agree, promise and covenant not to sue, assert or otherwise maintain or assert any claim against the Releasees for any injury, death, illness or disease, or damage to the Minor's property, arising from or connected with the Minor's participation in this activity.

I further agree, that if, despite this Release and Waiver of Liability, Assumption of Risk, and Indemnity Agreement I, the Minor, or anyone on the Minor's behalf make a claim against any of the Releasees, I will indemnify, save and hold harmless each of the Releasees in conjunction with any injury, disability, death, or loss or damage to person or property that may occur as a result of engaging in the Activity as well as from any litigation expenses, attorney fees, loss liability, damage, or cost which may be incurred as the result of such claim and to reimburse them for any such expenses incurred.

**I have read this section, and initial to show that I understand and agree: \_\_\_\_\_**

The undersigned parent or guardian represent that he/she has read this Waiver, and is fully aware of and understands the terms and the legal consequences of the signing of this Waiver. The undersigned parent or legal guardian intends his or her signature to be a complete and unconditional release of all liability to the greatest extent allowed by law and if any portion of the Waiver is held invalid, it is agreed that the balance, shall, notwithstanding, continue in full legal force and effect.

\_\_\_\_\_  
Signature of Parent/Legal Guardian

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Employee/Witness