

RELEASE OF LIABILITY AND WAIVER OF LEGAL RIGHTS
READ CAREFULLY BEFORE SIGNING

WARNING, ASSUMPTION OF RISK, RELEASE OF LIABILITY, AND INDEMNITY AGREEMENT AND CONSENT FOR MEDICAL TREATMENT.
SKI APACHE RESORT ("RESORT") 2013

The participant identified below, who is at least 18 years old (the "Adult") has read this agreement and has signed it, or if participant is younger than 18 ("Minor"), the Minor's parent or legal guardian (the "Adult"), has read this agreement and signed it on behalf of him/herself and the Minor. The Adult or the Minor participant and the Minor's parent or legal guardian collectively, will be referred to herein as the "Undersigned". "Participant" refers to the person actually taking part in some or all of the summer activities, lift transport, mountain bike riding, mountain bike tour, lesson or bike rental (collectively the "Activity") at Ski Apache Resort (the "Resort"). **The Undersigned understand and agree that Participant will not be permitted to take part in an Activity unless this Warning, Assumption of Risk, Release of Liability, and Indemnity Agreement and Consent for Medical Treatment ("Agreement") is fully executed.**

UNDERSIGNED UNDERSTAND AND AGREE THAT THIS AGREEMENT WILL APPLY FOR EVERY DAY PARTICIPANT ENGAGES IN ANY ACTIVITY DURING THE 2013 SUMMER SEASON WITHOUT REQUIRING UNDERSIGNED TO SIGN AN ADDITIONAL FORM FOR EACH DAY AND/OR EACH ACTIVITY UNTIL UNDERSIGNED REVOKE IT IN WRITING AND THAT WRITING IS ACCEPTED IN A WRITING SIGNED BY THE RESORT'S AUTHORIZED REPRESENTATIVE. THE PERSON SIGNING BELOW ACKNOWLEDGES, UNDERSTANDS AND AGREES THAT BY SIGNING THIS AGREEMENT FOR HIM/HER SELF AND, IF APPLICABLE, ON BEHALF OF MINOR, HE/SHE IS ASSUMING RISKS, WAIVING RIGHTS AND RELEASING CLAIMS IN ADDITION TO THOSE ADDRESSED BY THE LAWS GOVERNED BY THE MESCALERO APACHE TRIBE.

Undersigned understand and agree that the Activity in which Participant will be engaged involves risks, known or unknown, inherent or otherwise, and that some of which are described herein. Undersigned understand and agree that the Activity involves strenuous physical activity that may be hazardous to some people due to their physical condition and that outdoor activity, especially those conducted at high altitudes, involve dangers and risks that can lead to serious injury and death. Such dangers and risks include, without limitation, becoming lost or disoriented, rapidly changing weather conditions, exposure to the sun, rain, snow, hail and lightning, hypothermia, dangers caused by other persons engaged in similar activities, the possible occurrence of landslides and flooding, skin irritations and illness due to plants, wildlife encounters, falling trees and limbs and reduced oxygen in the air at high altitude.

MOUNTAIN BIKING IS A DANGEROUS AND HAZARDOUS ACTIVITY WHICH CAN RESULT IN SERIOUS INJURY OR DEATH. Mountain biking is different than

road biking, and may be more dangerous than road biking in that it is done on partially improved and unimproved trails and roads, as well as on naturally rugged terrain. Mountain biking involves risks, including, but not limited to, steep slopes, rocks of various sizes, trees, roots, tree stumps, cliffs, rock drops, holes and potholes, depressions, streams and creeks, dirt features and other constructed features such as bridges, ramps, ladders, bumps, berms, jumps and drops, wallrides, elevated stunts, uneven and/or slippery trail conditions, varying slopes, variations in terrain, forest growth, loose gravel and dirt, wet surfaces, downed timber, debris, collisions, other riders, hikers and pedestrians, heavy equipment and vehicles. Trail conditions and features may change quickly due to weather, use and other factors. Undersigned understand and agree that there are risks involved in decision-making and conduct of the Resort's employees involved with the Activity, including, but not limited to, the risks involved with rescue operations and/or medical care conducted or provided by Resort personnel and the risk that an instructor/coach/guide may misjudge Participant's abilities, conditioning, or misjudge weather, terrain, trail conditions, route selection, location, or some aspect of Participant's mental, emotional or physical condition that may make a certain portion of the Activity appropriate or inappropriate for the Participant.

Undersigned understand and agree that Participant must have the physical dexterity and knowledge to safely load, ride and unload the lift and access the terrain they choose. Adult also understands and agrees that Minor may be riding the lift without being accompanied by an adult and hereby gives permission for the Minor to do so. Adult agrees that that he/she will instruct and direct Minor to abide by the rules and regulations of the Resort and to follow instruction and direction from Resort staff. Adult for him/herself and/or, if applicable, on behalf of Minor hereby freely and expressly agrees to ASSUME AND ACCEPT ANY AND ALL RISKS OF INJURY OR DEATH to the Participant in any way connected with the Activity. RECOGNIZING THE RISKS, ADULT VOLUNTARILY CHOOSES TO TAKE PART IN THE ACTIVITY AND, IF APPLICABLE, VOLUNTARILY CHOOSES TO ALLOW MINOR TO PARTICIPATE IN THE ACTIVITY AND REPRESENTS THAT PARTICIPANT HAS THE SKILLS AND DEXTERITY TO SAFELY PARTICIPATE IN THE ACTIVITY AND WILL AT ALL TIMES RIDE WITHIN HIS/HER ABILITIES OR PARTICIPATE IN OTHER PARTS OF THE ACTIVITY IN A PRUDENT AND RESPONSIBLE MANNER.

By signing this Agreement Undersigned acknowledge the risks associated with the Activity and, as a condition to Participant engaging in the Activity, Undersigned agree to (1) ASSUME ANY AND ALL RISKS OF INJURY OR DEATH to Participant while or as a result of participating in the Activity; (2) WAIVE, RELEASE, and NOT SUE, MAKE ANY CLAIMS OR FILE ANY ACTIONS against Ski Apache, The Inn of the Mountain Gods Resort and Casino, the Mescalero Apache tribe, and each of their insurance carriers, subsidiaries, affiliates, officers, directors, shareholders, members, representatives, assignees, employees, volunteers, and agents as well as any Activity sponsors, equipment manufacturers and distributors (hereinafter the "Indemnified Parties") that are based on, arise or result from, in whole or in part, participation in any Activity; (3) INDEMNIFY, DEFEND AND HOLD THE INDEMNIFIED PARTIES HARMLESS from any and all claims, demands, actions, causes of action, losses or liabilities whatsoever arising from or related to participation in any Activity and any loss, damage or injury, including death, that may be sustained by Participant or caused to others or their property by Participant. Undersigned agree to pay all costs, including reasonable attorneys' fees and disbursements, incurred by any Indemnified Party in defending an investigation, claim or suit brought by or on behalf of Undersigned.

HELMETS ARE REQUIRED while mountain biking at the Resort. Undersigned agree that Participant will wear a helmet at all times while riding at the Resort and will operate his/her mountain bike only on marked trails or roads, unless specifically authorized to operate his/her mountain bike elsewhere by Resort staff. Undersigned understand and agree that although Participant may be wearing a helmet, a helmet cannot guarantee Participant's safety and no helmet can protect the wearer against all potential head injuries or prevent injury to the wearer's face, neck or spinal cord. Participant agrees to wear appropriate safety equipment, as established by industry standards and common safety practices and assumes all risks associated with failure to wear appropriate safety equipment. Undersigned warrant that Participant will operate rental equipment ONLY after receiving instructions on its safe and proper use and understands how to use the brakes and shifting mechanisms. **Adult understands and agrees that he/she may not be available or present when the Minor's equipment is fitted and adjusted and hereby waives the opportunity to verify the mountain bike and helmet size and fit and authorizes employees of the Resort to fit and adjust the mountain bike and helmet.** Prior to mountain biking Participant will inspect his/her bicycle and assure him/herself that it is in good operating order and can be safely used. Participant understands and agrees that rental equipment is equipped for daytime use ONLY and that any use of the equipment after dark is not recommended and it is at Participant's own risk. Undersigned understand and agree that Participant will be the only person to use the rented equipment during this rental period. Undersigned accept the equipment for use "as is" and with no warranties, express or implied, and accept full responsibility for the care of the equipment while in Participant's possession. If the rental equipment is not functioning properly, Undersigned agree Participant will stop using rental equipment immediately, will notify the rental shop immediately and return the improperly functioning equipment to the rental shop.

DAMAGE RESPONSIBILITY: If equipment is being rented, Undersigned accept responsibility for any and all damage to equipment, beyond normal wear and tear, and agree to pay all costs of necessary repairs including but not limited to parts, and labor at prevailing shop rates. Evaluation of such damage and repairs needed are at the sole discretion of a shop technician who will inspect the equipment within 24 hours from the time it is returned. Undersigned understand and agree that any adjustment that Participant may make on the equipment is subject to readjustment by the shop technician at Undersigned's sole expense. Undersigned agree that Participant will return the equipment to rental shop at the agreed upon time and that Undersigned will be responsible for full retail value if Participant returns equipment late.

Undersigned accept damage responsibility or Undersigned have purchased the Damage Waiver for rental equipment. Damage Waiver does not cover loss or theft of bike; Damage Waiver does not cover damage due to changes to bike set-up made by Renter without Resort consent; Damage Waiver does not cover intentional abuse or damage.

Undersigned authorize the Resort and/or its authorized personnel to call for medical care for the Participant or to transport the Participant to a medical facility if, in the opinion of such personnel, medical attention is needed for the Participant. It is agreed that upon transport to any medical facility, the Resort shall not have any further responsibility for the Participant, and all costs associated with such medical care and related transportation provided for the Participant shall be paid by Undersigned and the Undersigned do hereby indemnify and hold harmless the Indemnified Parties of and from any costs incurred therein.

Undersigned give Resort permission to take and use photographs, video recordings, or movies of Participant taken during an Activity and use and sublicense such material for any purpose in promoting the Resort or related activities of the Resort in print, brochures, advertisements, films or videos and on broadcast presentations of any sort.

The adult signing below agrees for him/herself and Minor that ALL claims arising from or related to any Activity, including for injury to person or property and/or death shall be **GOVERNED BY THE LAWS OF THE MESCALERO APACHE TRIBAL COURT**, without regard to conflicts of law principles, and that **EXCLUSIVE JURISDICTION** shall be in the Mescalero Apache Tribal court. **UNDERSIGNED VOLUNTARILY AND IRREVOCABLY WAIVE ANY OBJECTION TO SUCH LAW AND JURISDICTION.**

This Agreement shall be binding to the fullest extent permitted by law. If any provision of this Agreement is found to be unenforceable, the remaining terms shall be enforceable. **THE UNDERSIGNED PARENT OR LEGAL GUARDIAN REPRESENTS AND ACKNOWLEDGES THAT HE/SHE IS ENTITLED TO AND IS SIGNING THIS AGREEMENT ON BEHALF OF MINOR AND THAT MINOR WILL BE BOUND BY ALL THE TERMS OF THIS AGREEMENT. UNDERSIGNED UNDERSTAND AND AGREE THAT IF THIS AGREEMENT IS NOT SIGNED ON BEHALF OF MINOR, MINOR WILL NOT BE PERMITTED TO PARTICIPATE IN ANY ACTIVITY.** This Agreement shall be binding upon Undersigned's assignees, subrogors, distributors, heirs, next of kin, executors and personal representative

PRINT NAME _____

DATE _____

SIGNATURE _____

SIGNATURE OF PARENT OR GUARDIAN IF PARTICIPANT IS UNDER 18 _____

