

*This Document does not release Telluride Academy from liability for injuries, damage, death, or other loss caused by Telluride Academy's negligence, gross negligence, recklessness, or intentional conduct on certain federal lands. For activities that will take place on federal lands governed by policies that prohibit any of the terms below, Telluride Academy will ask families to sign the federally approved Visitor Acknowledgment of Risk form ("VAR"). For the sake of clarity, this Document applies in its entirety to all activities occurring outside of those specific federal lands on which the terms of this Document are expressly prohibited.*

## **TELLURIDE ACADEMY: ACKNOWLEDGMENT AND ASSUMPTION OF RISKS & RELEASE AND INDEMNITY AGREEMENT**

For adult and minor participants

### **INTRODUCTION**

**PLEASE READ THIS ENTIRE DOCUMENT (hereafter "Document") CAREFULLY BEFORE SIGNING.** The adult participant or the parent or legal guardian (hereafter collectively "parent") of a minor participant (those under 18 yrs. of age; hereafter sometimes "minor" or "child") must sign this Document.

**In consideration of the services of The Telluride Academy, Inc., doing business as Telluride Academy, a Colorado non-profit corporation, and its officers, directors, trustees, board members, advisors, employees, agents, representatives, physician advisors, volunteers and all other affiliated persons or entities (individually and collectively referred to in this Document as "TA"), I (adult participant or parent of a minor participant) acknowledge and agree as follows:**

Some federal land agencies may have restrictions, such as prohibiting service providers from seeking releases of liability for their own negligence when operating under permit on those federal lands. To the extent a court determines, as a matter of law, that these federal restrictions prohibit me from agreeing to any clause below, that clause will not be enforced. Despite this provision, some agency officials may require a participant to sign a separate Acknowledgment of Risk that repeats some of what appears in this Document. As a result, Cheley may ask you to sign that form as well

### **ACKNOWLEDGMENT & ASSUMPTION OF RISKS**

Participating (whether attending, observing or actively participating) in TA year-round instructional, educational, recreational and/or adventure activities includes risks. These activities may take place in Colorado or in other U.S. or international locations, and may include, but are not limited to: hiking and peak ascents; backpacking; camping; wilderness exploration; horseback riding; llama trekking; mountain or road bicycling; technical rock climbing (both indoors on artificial walls, and/or outdoors on natural rock); cross-country/Nordic or downhill skiing; snowboarding; tubing; sledding; snowshoeing; ice skating; ropes or challenge course activities; swimming; river rafting; canoeing; kayaking; sailing or other boating; fishing; snorkeling; surfing; zip-lining; skateboarding; gymnastics; karate; orienteering; archery; theater; service learning projects; science experiments; arts and crafts; cooking and food preparation; interactive games and/or other sporting activities; engaging in any activity in a manmade or manipulated park/terrain/skate park setting (e.g. biking, snowboarding, kayaking, skateboarding) or on trails or roads; socializing; use of any equipment, facilities or premises, including homestays or use of backcountry huts; travel on trams, chairlifts, airplanes, vans, buses, and other vehicles to and from activities or otherwise (collectively referred to in this Document as "activities"). Activities may be day or multi-day, led by TA staff or contractors, mandatory or optional, scheduled or unscheduled, supervised or unsupervised, and/or occur during participant's free and/or independent time. **I acknowledge that the inherent and other risks, hazards and dangers** (sometimes collectively referred to in this Document as "risks") **of the activities can cause injury, damage, death or other loss to participant or others.** The parent of a minor gives permission for their child to participate in all TA activities and agrees to discuss the nature of these activities and risks with their child. **The following includes some, but not all of the inherent risks:**

**Outdoor environment.** Risks include travel in high altitude (depending upon the activities, up to or above 14,000 ft.), mountainous or wilderness terrain both on and off trail, and on land or water. Participant's travel may be subject to: storms, including strong winds, rain, lightning, snow or ice; extremely hot, humid or cold weather or water and rapid or unpredictable weather changes; flash floods; fast moving rivers or other water bodies, including currents, waves or whitewater; mud, snow or rock slides, including avalanches; steep, exposed and rugged terrain; falling or unstable rocks, ice or snow chunks; falling or fallen timber; stinging, venomous and/or disease carrying animals, insects or microorganisms; poisonous plants; close and unpredictable contact with wild or domestic animals and other natural or man-made hazards. Hazards (both on land and above and below water level) may not be marked or visible and weather is always unpredictable.

**U.S. or international location.** Travel can involve unique risks, such as political unrest, terrorism and warfare, contact with unusual diseases or bacteria, exposure to contaminated food or water, dangerous road or travel conditions, thievery, abduction, and other risks. Participants may be subject to laws and legal systems in foreign countries that do not provide the same protections as the U.S. legal system. **Note:** Although TA considers current geo-political climates in choosing program locations, TA personnel are not experts in assessing the likelihood of terrorist activity, political unrest, and the need for vaccinations or other issues. Participant (or parent of a minor) is responsible for conducting their own independent investigation through the U.S. State Department, Centers for Disease Control, World Health Organization or other sources, should they have concerns about program locations.

**Any outdoor or physical activity.** Risks include that a participant may overestimate his/her abilities or fitness; be inattentive; lose control and trip or fall and/or collide with, for example, others, the ground, rocks or trees or encounter other animal/water/terrain/road/trail hazards; not understand the functioning of (or misuse) the equipment; encounter the unpredictable or dangerous behavior of a horse or other domestic animal, whether riding or within range of the animal; fail to negotiate steep, uneven or difficult terrain; not control his/her speed or experience equipment malfunction.

**Rafting or other boating and swimming.** Risks include potential water obstacles or hazards such as rapids, boulders, trees, fences, waterfalls, holes, reversals; slipping on wet rocks or jumping off rocks into the water; falling overboard; being swept into a river current or experiencing a boat capsize or collision.

**Judgment and decision making.** Staff or others, including participants, must make various judgments and decisions in a variety of environments that are, by their nature, imprecise and subject to error. Risks include that a TA staff member, contractor, the participant, a co-participant or other person, may

misjudge the participant's (or others) capabilities, health or physical condition, or misjudge some aspect of instruction, medical treatment, weather, terrain, water conditions or water level, or route location.

**Personal health and participation.** The participant's mental, physical or emotional condition (including use or abuse of prescription or non-prescription drugs), disclosed or undisclosed, known or unknown, combined with participation in these activities includes risks. Although TA will review participant's submitted medical information, TA cannot anticipate or eliminate risks or complications posed by participant's mental, physical (including fitness level) or emotional condition. TA has identified "challenge levels" for some programs that contain general information on travel distances and other details, to assist participants in choosing programs. Adult participant or parent assumes full responsibility for selecting courses based upon this or other information, and their own understanding of participant's condition.

**Equipment.** The risk that equipment used in an activity may be misused, may not fit, or may break, fail or malfunction. This includes participant's personal equipment, TA equipment or any other equipment (whether purchased, borrowed or rented). Participants choosing to bring and use their personal equipment (including any safety gear) assume full responsibility, along with their parent, for choosing appropriate equipment and for the fit and condition of their equipment. TA requires use of helmets or other safety gear for some activities and participants are responsible for keeping safety gear on during these activities. Safety gear may prevent or lessen injuries in some instances; however, use of safety gear is not a guarantee of safety, and injury can occur even with the use of this gear.

**Risks connected with geographic location.** TA activities may take place in remote places, several hours from any medical facility, causing potential delays or difficulties with communication, transportation, evacuation and medical care. Additional delays can result if circumstances require transport from a foreign country back to the U.S. for medical care. TA staff or contractors may or may not have wireless communication devices (including cell or SAT phones); nevertheless, use of these communication devices in any location is unreliable and inconsistent.

**Cooking, camping and travel.** Risks include gas explosion, scalding or other burns associated with tending to, cooking over or being near a gas stove or open fire. Contaminated water is a risk in natural or primitive settings. Food or water is also provided by vendors, contractors, public restaurants, host families or others with risks of contamination or allergic reaction. Camp sites may be subject to falling trees and/or branches, floods, wildlife disturbances, and other hazards.

**Campgrounds, homestays, group or community accommodations.** Risks include sharing rooms or space with unrelated parties or homestay families, lack of privacy and security and unsanitary living conditions. In addition, participants may live with a homestay family without direct TA staff supervision and may travel to and from their accommodations or homestay family independently.

**Free time.** Participants may have free and/or independent unsupervised time before, during and after the start of activities and at various other times. Unsupervised time may include free or independent time alone or with others and/or time spent with home-stay families. Participants will not be directly supervised or watched during nighttime sleeping hours, whether in a hostel, hotel, homestay, tent or other accommodation.

**Participant conduct; interactions with people.** Risks associated with the participant's interactions with other participants or third parties including any person's carelessness, maliciousness, or other misconduct, reliance on or interactions with TA, its contractors, homestay families or other known or unknown persons, including the possibility of inadvertent touching by anyone.

**The inherent risks - and other risks - may result in participants:** falling partway or falling to the ground or into the water; being struck by, colliding with or impacting objects, people, animals or the bottom of a river or other water body; experiencing vehicle or boat collision, capsize or rollover; getting caught or entangled in objects above or below water; reacting to high altitudes, weather conditions or increased exertion; becoming lost or disoriented; suffering gastro-intestinal complications or allergic reactions;; or experiencing other problems. These and other circumstances may cause heat or cold related illnesses or conditions (including hypothermia, hyperthermia, cold water immersion, frostbite or heat exhaustion/stroke), dehydration, drowning, suffocation, high altitude sickness, heart or lung complications, broken bones, paralysis or other permanent disability, mental or emotional trauma, pregnancy, concussions, sunburn or other burns, infections, illnesses (including contracting animal/insect borne or contagious diseases or viruses), cuts or wounds or other injury, damage, death or loss.

**I (adult participant or parent of a minor participant) agree:**

- to review all TA information received, complete and sign all required forms, and abide by the terms of those documents and TA rules or other policies;
- that by registering for a TA program, I am legally bound by the TA Registration Terms & Conditions and TA Code of Conduct (available for review at [www.tellurideacademy.org](http://www.tellurideacademy.org)).
- TA representatives are, and have been available should I have further questions about the activities, the associated risks or other issues;
- to disclose to TA representatives any mental, physical or emotional condition/s or limitation/s which might affect participant's ability to participate, and represent that participant is fully capable of participating without causing harm to himself/herself or others;
- the information provided above or otherwise is not complete, other unknown or unanticipated activities, risks, and outcomes may exist, and TA cannot assure participant's safety or eliminate any of the risks; **at all times, participants share in the responsibility for their own well-being and the well-being of the group;**
- if participant is borrowing, renting or purchasing new or used equipment from TA, the equipment comes "AS-IS," and TA disclaims all warranties, express or implied (including any conditions of merchantability or fitness for a particular purpose) with regard to the equipment;
- TA contracts with individuals/organizations that are independent contractors (not their employees or agents) to provide some of the services and activities participants may engage in. TA does not supervise or control these contractors and is not legally liable or responsible for their conduct; I acknowledge that I may independently investigate and assess these individuals, organizations, services or activities, if I choose.

- Participant is voluntarily participating with knowledge of the risks. Therefore, participant (and parent of a minor) assume and accept full responsibility for participant, for the inherent and other risks (known and unknown, described above or otherwise) of the activities and for any injury, damage, death or other loss suffered by participant (and parent of a minor) resulting from those risks, including the risk of participant's own negligence or other misconduct.

#### **RELEASE AND INDEMNITY AGREEMENT**

Please read carefully. This Release and Indemnity agreement contains a surrender of certain legal rights. I (adult participant, or parent for myself and for and on behalf of my participating minor child) agree as follows:

1) to release and agree not to sue TA with respect to any and all claims, liabilities, suits or expenses (including attorneys' fees and costs) (hereafter collectively "claim" or "claim/s"), for any injury, damage, death or other loss in any way connected with my/my child's enrollment or participation in the activities. I understand I agree here to waive all claim/s I or my child may have against TA, bind my/my child's estate and any family member/heir/other party bringing claim/s, and agree that neither I, my child, nor anyone acting on my or my child's behalf, will make a claim against TA as a result of any injury, damage, death or other loss suffered by me or my child;

2) to defend and indemnify ("indemnify" meaning protect by reimbursement or payment) TA, with respect to any and all claim/s:

a) brought by or on behalf of me, my child, my spouse or other family members, my/my child's heir/s or estate, for any injury, damage, death or other loss in any way connected with my/my child's enrollment or participation in the activities; and/or,

b) brought by a co-participant or other person for any injury, damage, death, or other loss to the extent caused by my/my child's conduct in participating in the activities, or brought by a medical care provider, insurer or other third party as a result of medical or other care or services provided to the participant including transportation and evacuation costs.

This Release and Indemnity Agreement includes claim/s of or resulting from TA's negligence (but not its gross negligence or willful and wanton misconduct) and includes claim/s for personal injury or wrongful death (including claim/s related to emergency, medical, drug and/or health issues and any related response, assessment or treatment), property damage, loss of consortium, breach of contract or any other claim.

#### **OTHER PROVISIONS**

I (adult participant or parent of a minor participant) agree:

- Colorado substantive law (without regard to its "conflict of law" rules) governs this Document, any dispute I or my child have with TA and all other aspects of my/my child's relationship with TA, contractual or otherwise, and agree that any lawsuit or other legal proceeding must be filed or entered into only in San Miguel County, Colorado, which shall be the sole jurisdiction and venue for any such proceeding;

- to attempt to settle any dispute (not settled by discussion) through mediation before a mutually acceptable Colorado mediator;

- in regard to my relationship with TA, I agree that the contents of this Document will take precedence over any other forms or contracts I may sign (for parties other than TA) in connection with these activities;

- If I am a parent, I agree that if my status as a minor's parent is challenged or found invalid, at any point, I agree to release, not to sue, indemnify and defend TA to the fullest extent allowed by law and per the provisions of this Document, just as if I were the child's legal parent;

- This Document is intended to be interpreted and enforced to the fullest extent allowed by law. Any portion of this Document deemed unlawful or unenforceable shall not affect the remaining provisions, and those remaining provisions shall continue in full force and effect.

I (adult participant or parent of a minor participant) agree: I have carefully read, understand and voluntarily sign this Document, and acknowledge that it shall be effective and legally binding upon me, my spouse, participating child and other children, and participant's/parent's other family members, heirs, executors, representatives, subrogees, assigns and estate. *The adult participant (those 18 yrs. of age or older) or the parent of a minor participant must sign below.*

I understand my signature is valid and legally binding whether I choose to electronically sign, or manually sign a printable version of this Document.