

AdventureSmith Travel Services Inc., d/b/a AdventureSmith Explorations  
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530-583-1775  
CST No. 2069288

**The terms and conditions contained in this agreement contain legal obligations, waivers of liability, cancellation and refund policies, and express assumptions of risk. You should read this entire document carefully.**

## **A. Agreement**

These terms and conditions represent an agreement between each person booking, reserving, purchasing, or traveling on a Tour (as that term is later defined), and their successors, agents, or assigns (collectively, “Client,” “Your,” or “You”); and AdventureSmith Travel Services, Inc., a California Corporation D/B/A AdventureSmith Explorations, and each of its owners, employees, shareholders, subsidiaries, affiliates, officers, directors, successors, agents and assigns (“AdventureSmith,” “We,” “Our,” or “Us”). By making a reservation and in consideration for the opportunity for You to participate in an AdventureSmith Tour (“Tour”), You agree to the terms and conditions of this agreement, and any and all other applicable operating rules, policies, price schedules and other supplemental terms and conditions or documents that may be published from time to time, which are expressly incorporated herein by this reference (collectively, the “Agreement”). You agree on behalf of yourself and those you represent to comply with all such terms and conditions, including the payment of all amounts when due.

You agree that any violation of any such terms and conditions may result in (a) the cancellation of your reservation or purchase, (b) your forfeiture of any monies paid for your reservation or purchase, (c) you being denied access to the applicable travel related product or service, and (d) our right to debit your account for any costs we incur as a result of such violation.

You represent and warrant that (a) you are of sufficient age to use our services and website and can create binding legal obligations in connection with your use, (b) you are legally authorized to act on behalf of those you represent and accept these terms and conditions on their behalf, and

(c) the information supplied by you or members of your group is true and correct. You are responsible for informing such other persons of all terms and conditions applicable to their travel arrangements. You understand that you are financially responsible for any use of our services or website by you and those for whom you make bookings.

## **B. Third Party Suppliers**

### **1. Relationship with AdventureSmith**

AdventureSmith organizes, promotes, and sells certain travel services provided by independent third-party suppliers (individually, a “Third Party Supplier,” and collectively, “Third Party

Suppliers”). You acknowledge that all travel activities and services provided in connection with any Tour, including, without limitation, hotels and lodging facilities, restaurants and other food providers, equipment providers, Tour guides, local guides, or transportation of any kind by any vessel, aircraft, bus, train, kayak, or other mode of transportation, are provided, owned and operated by Third Party Suppliers and not by AdventureSmith. Third Party Suppliers are

independent contractors not subject to the supervision and control of AdventureSmith and are not the agents, employees, servants, or joint venturers of AdventureSmith. All tickets, receipts, coupons, and vouchers are issued subject to the terms and conditions specified by each supplier, and by accepting the coupons, vouchers, and tickets, or utilizing the services, all customers agree that neither AdventureSmith, nor its employees, agents, or representatives are or may be liable for any loss, injury, or damage to any tour participant or their belongings, or otherwise, in connection with any service supplied or not supplied resulting directly or indirectly from any occurrence beyond the control of AdventureSmith. Therefore, AdventureSmith, hold themselves free of responsibility for any damage(s) from any cause(s) whatsoever. We will not be responsible for any damage, expense or inconvenience caused by late air, rail or boat arrivals or departures or by any change of schedules or other conditions; nor will they be responsible for the loss of, or damage to baggage or any article belonging to the passenger. The right is also reserved to decline to accept or retain any person traveling under our auspices. The carriers concerned are not to be held responsible for any act, omission or event during the time passengers are not on board their plane or conveyance. The passenger contract used by the carriers concerned, when issued, shall constitute the sole contract between the carriers and the purchasers of this tour and/or the passengers. We and our agents and suppliers reserve the right to change the sequence of the itinerary to re-route, substitute or change certain site visits according to local conditions at the time of your stay.

## **C. Reservations, Pricing, and Payment**

### **1. Reservations**

Prior to making a reservation (“Reservation”) and/or participating in a Tour, You must complete and sign the forms provided to You by AdventureSmith, including, without limitation, , Third Party Supplier forms, and traveler information forms (collectively, “**Traveler Forms**”). Although Reservations may be subject to Third Party Supplier Terms, all Reservations are by and between You and AdventureSmith and are made when: (1) AdventureSmith receives a fully completed Traveler Forms from You and every individual in Your party (whether in paper or electronic form), (2) the required deposit payment for the Tour is received by AdventureSmith (“**Deposit**”), and (3) AdventureSmith has confirmed acceptance of the Reservation to You in writing (whether in paper or electronic form). You acknowledge that Deposit amounts (and cancellation terms and fees) may vary by Tour and are subject to change in accordance with the terms of this Agreement and Third Party Supplier Terms.

### **2. Confirmation**

Upon receipt of Your Deposit and all signed Traveler Forms, AdventureSmith will send You a comprehensive Adventure Planner dossier (“**Dossier**”) either by regular or electronic mail. The Dossier contains the AdventureSmith destination handbook and map, as well as various travel

recommendations, including, without limitation and for example, suggestions regarding immunization, entry and visa requirements, insurance, packing lists, and suggested reading. Two to three (2-3) weeks prior to Your Tour, You will receive a final Tour packet that includes final reminders and local contact information for Your destination, and any applicable tickets and vouchers. You acknowledge that any information or advice provided to You by AdventureSmith in the Dossier or at any time related to the Tour, including, without limitation, information regarding visas, vaccinations, climate, clothing, baggage, or special equipment, is provided to You as a courtesy only, and AdventureSmith does not warrant or guarantee the accuracy or applicability of

any such information. You are responsible for confirming the applicability and accuracy of all such information necessary for Your travel.

### 3. Pricing and Payment

**(i) Method of Payment.** Accepted methods of payment for Tours are determined by Third Party Suppliers and subject to change from time to time. Generally, payment may be made by personal check from United States financial institutions, or by credit card through VISA, MasterCard, or American Express. Notwithstanding the foregoing, different forms of payment may be required for a Tour. AdventureSmith does not control payment terms for Reservations made by travel agents.

- **(ii) Time for Payment.** You must pay the balance of the Tour price to AdventureSmith at one-hundred-twenty (120) days before the Tour Start Date. For the purposes of this Agreement, “**Tour Start Date**” shall mean the first date on the Tour itinerary that You have reserved with AdventureSmith and not any earlier departure date that You may have planned including, without limitation, airline flights arranged for and necessary to Your embarkation on the Tour. Failure to deliver complete payment in accordance with the terms of this Agreement will be deemed to be notification of cancellation by You and is subject to the cancellation policies of this Agreement. Notwithstanding the foregoing, AdventureSmith may waive the provisions of this section in its sole and absolute discretion, provided that any such payments accepted within one-hundred-twenty (120) days of the Tour Start Date shall be subject to a late payment fee (“Late Payment Fee”). The Late Payment fee shall be two percent (2%) of the total price of the Tour per person.
  - Reservations made less than one-hundred-twenty (120) days prior to the Tour Start Date (“Last Minute Reservations”) may be accepted at the discretion of AdventureSmith and require payment in full. Last Minute Reservations are subject to a one-hundred dollar (\$100) late booking fee per person.

## D. Changes to Tours

### 1. Changes by AdventureSmith or Third Parties

- **(i) Changes to Itineraries.** AdventureSmith intends to deliver Tours as advertised. However, the nature of adventure travel is inherently uncertain. For example, changes to Tour itineraries may occur as a result of events relating, but not limited to, safety or security concerns, inclement or uncertain weather, animal behavior, economic or political instability, or public health. Itineraries provided to You by AdventureSmith are not intended to be contracts or legally binding documents of any kind. You acknowledge that changes to Tours, including, without limitation, changes to Tour itineraries, services, and facilities may be modified from time to time, without prior notice, by either AdventureSmith or Third-Party Suppliers in their sole and absolute discretion, and you agree that sufficient consideration for such modifications is present and acknowledged by you. AdventureSmith also reserves the right to substitute vessels or accommodations for those of similar quality, with or without previous notice to You.
  - **(ii) Changes to Tour Prices and Surcharges.** AdventureSmith publishes Tour prices in advance and may be required to increase Tour prices due to cost increase and factors out of AdventureSmith’s control. AdventureSmith reserves the right to impose surcharges up to forty-five (45) days before the first day of the Tour for increases in costs due to, among other things, changes in group size, rooming status, exchange rates, increases in airfares or transportation costs, or government action. If

any surcharge results in an increase of more than twenty-five percent (25%) of the Tour price, the client may cancel the Reservation within fourteen (14) days of notification of the surcharge and obtain a full refund, to the extent permitted by any relevant Third Party Supplier Terms.

- **(iii) Personal Expenses.** In the event changes to Your Tour itinerary occur, You will not be reimbursed for any expenses You may have incurred as a result of Your Reservation, including, without limitation, visas, vaccinations, travel insurance, transportation costs, lodging fees, other fees, and taxes.

## 2. Changes by the Client

- **(i) Changes to Tours.** You may request changes to Your Reservation for a Tour prior to one-hundred-twenty (120) days before the Tour Start Date (“**Change Request**”). AdventureSmith will work in good faith with Third Party Suppliers to accommodate Change Requests. However, AdventureSmith makes no warranties or guarantees that any Change Request will be approved. If AdventureSmith approves Your Change Request, You will be responsible for any additional costs associated with such change, including, without limitation, cancellation charges imposed by Third Party Suppliers and airline cancellation fees. AdventureSmith reserves the right to charge You an additional administration fee of ten percent (10%) of the value of Your original tour.
- **(ii) Additions to Tours.** You may request additions to existing Reservations, including booking additional accommodations, transfers, or excursions (“**Tour Additions**”), prior to one-hundred-twenty (120) days before the Tour Start Date. Requests for additions made within one-hundred-twenty (120) to forty-five (45) days prior to the Tour Start Date shall incur an additional administrative fee (“**Tour Addition Fee**”) of one-hundred dollars (\$100).
- **(iii) Transfers.** Transfers of Tours are not permitted. In the event You wish to book a different Tour, You must cancel Your Reservation and make a new Reservation. The terms and conditions imposed by this Agreement and any Third Party Supplier Terms apply to such cancellation, including, without limitations, cancellation fees and penalties.

## E. Cancellations

### 1. Cancellation by Client

AdventureSmith is required to pay all suppliers well in advance of your vacation. All suppliers have their own cancellation policies, which apply to your booking. Any request to cancel a Tour made by You must be made to AdventureSmith in writing via U.S. mail or electronic mail, provided that AdventureSmith may cancel Your Tour for failure to submit timely payment in accordance with the terms and conditions of this Agreement. The date of AdventureSmith’s receipt of such written request shall be deemed the date of cancellation (“**Cancellation Date**”) for purposes of determining the applicable cancellation fees pursuant to this section. Upon receipt or cancellation, AdventureSmith will follow industry procedures for any applicable refunds as outlined in the supplier’s terms and subject to their review. If you are entitled to a refund, please note that the supplier is responsible for this refund, not AdventureSmith. Generally, flight tickets, hotel reservation and other items provided for the travel cannot be refunded if they are partially used. We are not responsible for a supplier’s failure to pay a refund.

In addition to any terms of our suppliers, any refund will be at our sole discretion, but will at any rate be subject to A cancellation fee (“**Cancellation Fee**”). A Cancellation Fee shall apply if You

cancel Your Tour after You pay a Deposit. Unless otherwise specified, if You cancel a Tour, You will be responsible for the following Cancellation Fees:

- (i) If the Cancellation Date is one-hundred-twenty-one (121) days or more prior to the Tour Start Date, the Cancellation Fee shall be fifty percent (50%) of Your Deposit;
- (ii) If the Cancellation Date is forty-six (46) to one-hundred-twenty (120) days prior to the Tour Start Date, the Cancellation Fee shall be fifty percent (50%) of the total cost of the Tour;
- (iii) If the Cancellation Date is zero (0) to forty-five (45) days prior to the Tour Start Date, the Cancellation Fee shall be one hundred percent (100%) of the total cost of the Tour.

Notwithstanding the foregoing, AdventureSmith shall not issue any refunds for unrecoverable costs incurred by AdventureSmith, including, without limitation, funds advanced by AdventureSmith to Third Party Suppliers that do not allow for refunds. It is Your responsibility to be ready to embark on the Tour as specified in the itinerary. AdventureSmith is not responsible for any losses due to cancelled or missed flights, changed flight itineraries, late arrivals, or early departures.

## **2. Force Majeure**

AdventureSmith shall not be responsible for, and shall make no refund for, events beyond its control, such as, without limitation, acts of God, strikes, acts of war, terrorism or civil disturbance, government restrictions, changes of schedules or operational decisions of air carriers, terrorist activity or the threat thereof, industrial action, natural or nuclear activity, epidemic, pandemic, illness, physical injury, quarantine, medical or customs or immigration regulation, delay, or cancellation, adverse weather conditions, fire, or for acts or omission of Third Parties or other parties not under the control of AdventureSmith and all similar events outside our control.

## **3. Unused Portions of Tours and Services**

No refund is provided for any unused portion of a Tour, including the entire Tour in the event You do not commence the Tour on the Tour Start Date. Partial refunds are not available for any unused Tour services, including but not limited to lodging, meals, transportation expenses, activities, or other sightseeing excursions (collectively, "Services"). Notwithstanding the foregoing, if a portion of the Services of Your Tour are cancelled by us or a Third Party Supplier(s) because of an event that is within the control of AdventureSmith or a Third Party Supplier(s), We will endeavor to offer you a replacement or alternative. If You are not offered a replacement or alternative, We will refund the cost of that portion of the Services.

## **4. For California Residents**

Upon cancellation of the transportation or travel services, where the guest is not at fault and has not canceled in violation of any terms and conditions previously clearly and conspicuously disclosed and agreed to by the guest, all sums paid to AdventureSmith for services not provided will be promptly paid to the guest, unless the guest advises AdventureSmith in writing, after cancellation. This provision does not apply where AdventureSmith has remitted the payment to another registered wholesale seller of travel or a carrier, without obtaining a refund, and where the wholesaler or provider defaults in providing the agreed-upon transportation or service. In this situation, AdventureSmith will provide the guest with a written statement accompanied by bank records establishing the disbursement of the payment, and if disbursed to a wholesale seller of travel, proof of current registration of that wholesaler.

## **California Travel Restitution Fund**

This transaction is covered by the California Travel Consumer Restitution Fund (TCRF) if AdventureSmith was registered and participating in the TCRF at the time of sale and the guest is located in California at the time of payment. Eligible guests may file a claim with TCRF if the guest is owed a refund of more than \$50 for transportation or travel services which AdventureSmith failed to forward to a proper provider or such money was not refunded to you when required. The maximum amount which may be paid by the TCRF to any one guest is the total amount paid on behalf of the guest to AdventureSmith, not to exceed \$15,000. A claim must be submitted to the TCRF within 12 months after the scheduled completion date of the travel. A claim must include sufficient documentation to prove your claim and a \$35 processing fee. Claimants must agree to waive their right to other civil remedies against a registered participating seller of travel for matters arising out of a sale for which you file a TCRF claim. You may request a claim form by writing to:

Travel Consumer Restitution Corporation; P.O. Box 6001; Larkspur, CA 94977-6001; or by visiting TCRC's website at: [www.tcrcinfo.org](http://www.tcrcinfo.org).

The TCRF does not cover any guests purchasing an AdventureSmith Tour from outside of the State of California.

## **F. Age and Health Requirements**

### **1. Age Requirements**

All travelers under the age of eighteen (18) years old must be accompanied by a parent or legal guardian.

### **2. Health Requirements**

The nature of many of the destinations we travel to means that in some cases they may be unsuitable for those who use a wheelchair or have a lack of mobility, or other medical conditions. However, we will be delighted to discuss the feasibility of creating a tailor-made itinerary for you that takes into consideration your level of mobility.

Good physical and mental health is essential for the enjoyment of active Tours arranged by AdventureSmith. By forwarding the Deposit and signed Reservation form, the Client certifies that he/she does not have any physical or other condition of disability that would create a hazard for him/herself or other clients, Tour leaders, Third Party Suppliers, or AdventureSmith representatives.

Any Client or potential participant with medical conditions or particular foods or allergic reactions, must notify AdventureSmith in writing not less than one-hundred-twenty (120) days in advance of travel. Participants may also be required to provide a statement of good health certified by a doctor or medical professional. AdventureSmith will make all reasonable efforts to accommodate requests, but cannot be responsible if ADA accommodations are not available. Any accommodations provided will be at the sole expense of the guest requiring the accommodation. Please note that some accommodations may not be in compliance with the Americans with Disabilities Act and may not have wheelchair accessibility.

The tour guides and tour leaders are, unfortunately, unable to offer additional assistance to passengers with limited mobility and all such assistance will need to be provided by whoever the passenger is traveling with. Participants with disabilities must notify AdventureSmith in writing no later than the time of booking of status and of the identity of their non-discounted, paid travel companion who will be responsible for providing all necessary assistance.

For safety and liability reasons, AdventureSmith and its representatives cannot be responsible for directly accommodating any food allergies, or dietary requirements and restrictions, and is not responsible for any issues or problems associated with the same. We will advise the hotels and airlines of your request but we cannot guarantee their availability.

At any time before or during a Tour, AdventureSmith and/or Third Party Suppliers may, but are not obligated to, make a determination that an individual Client's fitness or health to embark upon, participate in, or continue a Tour is inadequate. In that case, the Client may be prohibited from embarking, continuing, or participating in all or any portion of a Tour. AdventureSmith supports the judgment of its Third Party Suppliers, Tour leaders, agents, or representatives in such cases and You agree to honor such determinations. Once a Reservation has been made, medical circumstances or fitness will not be considered exceptions to our cancellation policy.

**You expressly acknowledge that AdventureSmith and Third Party Suppliers are not required to make any determination regarding Your health or fitness to embark, continue, or participate in a Tour, and that AdventureSmith expressly disclaims any such warranties or representations to that effect. You further acknowledge that it is solely Your responsibility, and not the responsibility of AdventureSmith or any Third Party Supplier, to determine whether You should embark, continue, or participate in all or any portion of a Tour. AdventureSmith expressly disclaims and you hereby waive any and all liability for Your medical care or for Your special dietary requirements on any Tour.**

## **G. Medical Insurance**

Personal, travel-related medical insurance is required for all Clients at the time of travel. Your insurance must provide coverage against personal accident, death, medical expenses, air ambulance, loss of effects, emergency repatriation, and all other expenses which might arise as a result of any loss damage, injury, delay or inconvenience relating to the Tour.

### **1. Trip Protection Plan**

It is highly recommended that You obtain trip protection in the event that Your Tour is canceled for any reason. You are solely responsible for obtaining such plan and for understanding the scope of coverage, if any.

We strongly recommend that passengers purchase comprehensive trip protection that includes coverage for Trip Cancellation or Interruption, Cancel for Any Reason, Medical Expense, Emergency Evacuation/Repatriation, and Baggage. Such insurance at a minimum should cover your losses sustained as a result of cancellation, medical issues, and repatriation in the event of accident or illness. Certain countries have a requirement for foreign visitors to have valid medical insurance on entry. AdventureSmith cannot be held responsible for denied entry if a guest is unable to provide details to authorities of insurance or denial of entry for any reason.

AdventureSmith is not qualified to answer technical questions about the benefits, exclusions, and conditions of travel protection plans. AdventureSmith cannot evaluate the adequacy of the prospective insured's existing insurance coverage. If you have any questions about your travel protection, call your insurer or insurance agent or broker.

Declining travel protection coverage could result in the loss of your travel cost and/or require more money to correct the situation. You also acknowledge that without insurance, there may be no way to recoup any losses, costs or expenses incurred. If you choose to travel without adequate travel protection, we will not be liable for any of your losses howsoever arising, for which travel protection coverage would otherwise have been available.

## **H. Authority on Tour**

Tours may be run by a Tour guide who is the authority on all decisions that affect the health, safety, and/or wellbeing of Tour participants. Any decisions made by the Tour guide, AdventureSmith, or any Third Party Supplier are final. If You fail to comply with a decision made by a Tour guide, AdventureSmith, or any Third Party Supplier, or interfere with the well-being of the Tour or any Tour participant, the Tour guide may direct You to leave the Tour immediately and You shall have no right to any refund. You must, at all times, comply with the laws, customs, foreign exchange, drug and other regulations of all countries and destinations visited on the Tour.

## **I. Destinations/Travel Documents**

By offering reservations for travel in particular destinations, AdventureSmith does not represent or warrant that travel to such areas is advisable or without risk. It is your responsibility to be aware of travel warnings and advisories as announced by the U.S. State Department. Should you choose to travel to a destination that has been issued a travel warning or advisory, AdventureSmith will not be liable for damages or losses that result from travel to such destinations. In addition, you should consult with government websites to ensure that you are in compliance with all requirements for admittance into that country as well as understanding local laws that govern travel within a country, such as tracking.

You must obtain possession of a valid passport, all visas, permits and certificates, and vaccination certificates, required for the entire Tour. You accept responsibility for obtaining these documents and any other necessary documents. It is Your responsibility to assure that the name on Your airline ticket, cruise tickets, or any other travel documents matches Your name as printed in Your passport (or domestic identification, where applicable) by providing the exact name as it appears on Your passport (or domestic identification, where applicable) to AdventureSmith before tickets are issued. AdventureSmith bears no responsibility for such information and will not be responsible for advising and/or obtaining required travel documentation for you, or for any delays, damages, and/or losses including missed portions of your vacation related to improper documentation or government decisions about entry.

**Disinsection:** Most countries reserve the right to disinsect aircraft if there is a perceived threat to public health, agriculture, or environment. While this is not a common practice, we want you to be aware that it is a possibility. This process includes the following: (1) spray the aircraft cabin

with an aerosolized insecticide while passengers are on board or (2) treat the aircraft's interior surfaces with a residual insecticide while passengers are not on board. For more information you

can visit the U.S. Department of transportation website at:  
<https://www.transportation.gov/airconsumer/spray>.

## **J. Waiver of Liability and Express Assumption of Risk**

You understand that AdventureSmith Travel Services Inc., its employees, shareholders, subsidiaries, affiliate, officers, director, successors, agents and assigns (collectively AdventureSmith Explorations) does not own or operate any entity that provides goods or services for my trip including, for example and without limitation, lodging facilities, bus, plane, train, kayaks, yachts or other transportation companies or devices, food service providers, equipment suppliers, etc.

You acknowledge that the enjoyment of travel is derived in part from the inherent risks incurred by travel and activity beyond the accepted safety of life at home or work and that these inherent risks contribute to such enjoyment. You understand that the numerous risks and dangers involved, including inherent risks include but are not limited to: negligence in any manner on the part of AdventureSmith; emotional trauma; physical or psychological injury, pain, suffering, illness; disfigurement; temporary or permanent disability, including paralysis; economic or emotional loss; death; acts of God; the hazards of traveling in remote, unsafe or politically unstable areas or under unsafe conditions; the dangers of civil disturbances and war; forces of nature; transportation failures; equipment failures; accident or illness in remote places without access to medical facilities, transportation, or means of evacuation and assistance; unexpected events; terrorist activities, social or labor unrest; mechanical or construction failures or difficulties; diseases; local laws; climactic conditions; abnormal conditions or developments; or any other actions, omissions, or conditions outside of AdventureSmith's control. You acknowledge that You understand that these injuries or outcomes may arise from Your or other's actions, inaction, or negligence; conditions related to travel; use of alcohol or other substances; or the condition of the Tour location(s). You understand the description of these risks is not complete and that unknown or unanticipated risks may result in injury, illness, or death. You agree to be responsible for my own wellbeing and negligence. You freely and voluntarily assume complete personal responsibility for these risks and for the injuries or death that may occur as a result of these risks, even if such injuries or death occur in a manner that is not foreseeable at the time this agreement is signed.

On behalf of You and Your successors, assigns, heirs and representatives, You release and hold harmless from all liability and promise not to sue AdventureSmith, including each of its owners, employees, shareholders, subsidiaries, affiliates, officers, directors, successors, agents and assigns (collectively "**Released Parties**"), from any and all claims, including claims of the Released Parties' negligence, any physical or psychological injury (including paralysis and death), illness, damages, or economic or emotional loss suffered because of Your participation in any Tour, including travel to, from and during the Tour, and Your and other Tour participant's use of alcohol or other substances during the Tour. You agree that this release shall be legally binding upon you personally, all members of your family and all minors traveling with you and their heirs, successors, assigns, and legal representatives, it being your intention fully to assume all the risks associated with this trip and to release AdventureSmith from any and all liabilities to the maximum extent permitted by law. YOU ACKNOWLEDGE THAT YOU ARE AWARE OF AND SPECIFICALLY WAIVE THE PROVISIONS OF CALIFORNIA CODE SECTION 1542, which provides as follows: " A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor." YOU SPECIFICALLY WAIVE ON YOUR BEHALF AND ON BEHALF OF ANY MINOR

PARTICIPANT, AS APPLICABLE, ANY CLAIMS WHICH YOU DID NOT KNOW EXISTED OR DID NOT SUSPECT TO EXIST IN YOUR FAVOR OR MINOR PARTICIPANT'S FAVOR, AS APPLICABLE, AT THE TIME OF EXECUTING THIS RELEASE, WHICH IF HAD BEEN KNOWN TO YOU WOULD HAVE MATERIALLY AFFECTED YOUR SIGNING THIS RELEASE OF ADVENTURESMITH'S LIABILITY.

If You need medical treatment, You agree to be financially responsible for any costs incurred as a result of such treatment. If the Released Parties incur any such expenses on your behalf, including, without limitation, medical expenses or costs, You agree to reimburse the Released Parties in full. You acknowledge that You are aware and understand that You are required to have medical insurance pursuant to this Agreement.

Indemnification: You further agree to indemnify AdventureSmith against any claim by any person, including minors, arising in whole or in part from an injury or other loss suffered or caused by me in connection with the tour or my participation in the tour and any related activities.

You acknowledge that You understand the legal consequences of this document, including: (i) releasing the Released Parties from all liability; (ii) promising not to sue the Released Parties; and (iii) assuming all risks of participating in this Tour, including travel to, from and during the Tour. This Waiver of Liability and Express Assumption of Risk is intended to be as broad and inclusive as legally permitted by the State of California. By entering into this Agreement, You are not relying on any oral or written representation or statements made by AdventureSmith, other than what is set forth in this Agreement.

Where the guest occupies a motor coach seat fitted with a safety belt, neither AdventureSmith nor the Operator nor its agents or co-operating organizations or service providers will be liable for any injury, illness or death or for any loss or damages or claims whatsoever arising from any accident or incident, if the safety belt is not being worn at the time of such an accident or incident. This exclusion and limitation of liability shall not be used to imply that the Operator or its agents or affiliated entities are liable in other circumstances.

## **K. Indemnification**

Each participant is expected to act responsibly and adhere to all behavior guidelines established by AdventureSmith and our local ground-handlers. We and our local ground-handlers reserve the right to remove you from any trip if you endanger yourself or others or disrupt the general well-being of the trip itself. In any such case, there will be no refund.

You agree to defend and indemnify AdventureSmith, and each of its owners, employees, shareholders, subsidiaries, affiliates, officers, directors, successors, agents and assigns ("**Indemnified Parties**"), from and against any claims, causes of action, demands, recoveries, losses, damages, fines, penalties, and other costs or expenses of any kind or nature, including but not limited to reasonable legal and accounting fees and costs brought by third parties arising out of or resulting from (i) Your wrongful or negligent acts or omissions; (ii) any wrongful or negligent acts or omissions of other people for which You are responsible; (iii) Your breach of this agreement or documents referenced in this agreement; (iv) Your violation of any law or the rights of a third party; and/or (v) Your use of the AdventureSmith Explorations website ([www.adventuresmithexplorations.com](http://www.adventuresmithexplorations.com)).

## **L. Complaints**

Should You have a complaint about a Tour or any Third Party Supplier, we urge You to promptly notify AdventureSmith or Your Tour guide so the matter may be promptly resolved. If You do not reach a satisfactory resolution of Your complaint, You must submit such complaint in writing to AdventureSmith within thirty (30) days of the conclusion of Your Tour. **Guest claims not submitted and received within this time shall be deemed waived and barred.**

## **M. Images Release**

You agree that AdventureSmith may use, re-use and reproduce any images, photos or videos that You send to AdventureSmith, or that are taken by AdventureSmith, any Third Party Supplier, any Tour guide, and/or other Tour participants, whether individually or in a group, in any medium, including but not limited, to print, electronic media. You hereby grant AdventureSmith a perpetual, royalty-free, worldwide, irrevocable license to use such images for publicity and promotional purposes.

## **N. Limitation of Remedies**

You agree that the sole remedy for any default by AdventureSmith arising under this Agreement shall be the return of the paid Tour cost or the actual direct economic harm to You, whichever is less. To the maximum extent permitted under applicable law, AdventureSmith shall not be liable for any special, consequential, indirect, incidental or other damages arising out of this agreement, including lost profits, whether such damages arise in contract, negligence, tort, under statute, in equity, at law, or otherwise, even if AdventureSmith has been advised of the possibility of such damages. You expressly waive any right You may have to recover such damages.

## **O. Severability**

If any provision of this Agreement is unenforceable or invalid under any applicable law, such unenforceability or invalidity shall not render the Agreement unenforceable or invalid. Such unenforceable provision will be replaced with one that is valid and enforceable and which achieves, to the extent possible, the original objectives and intent of the original provision.

## **P. No Waiver**

The failure of AdventureSmith to exercise any right, power or remedy provided under this Agreement or to insist upon strict compliance to any term of this Agreement shall not constitute a waiver by AdventureSmith of its right to exercise any such or other right, power or remedy or to demand such compliance.

## **Q. Successors and Assigns**

This Agreement shall inure to the benefit of and be binding upon AdventureSmith and You and Your respective heirs, personal representatives, successors and assigns.

## **R. Updates to Terms and Conditions**

AdventureSmith reserves the right to update and/or alter the terms and conditions of this Agreement at any time. It is solely Your responsibility to be familiar with these terms and

conditions. The latest terms and conditions will be provided upon written request to AdventureSmith and can be found on the AdventureSmith website ([www.adventuresmithexplorations.com](http://www.adventuresmithexplorations.com)) and supersede any previous versions. The terms and conditions in effect at the time of your tour or cancellation will apply.

## **S. Applicable Law Venue**

You agree that any dispute concerning, relating, or referring to this Agreement, any Tour, AdventureSmith Tour brochures, any other materials relating to any Tour, or any claim for damages due to property injury, bodily injury or death which occurs during or in connection with any Tour, shall be resolved exclusively in a court of competent jurisdiction in the state of California. Such proceedings will be governed by substantive (but not procedural) California law. You agree that you will only bring claims against AdventureSmith in your individual capacity and not as a plaintiff or class member in and purported class action or representative proceeding. **All guest claims must be submitted in writing and received by AdventureSmith no later than thirty (30) days after the completion of the AdventureSmith Tour. Guest claims not submitted and received within this time shall be deemed waived and barred.**

## **T. Merger**

This Agreement is the final, complete and exclusive statement of the parties' agreement on the matters contained in this Agreement. It supersedes all previous negotiations and agreements.

California Seller of Travel California Registered Seller of Travel #2069288. Registration as a seller of travel does not constitute approval by the State of California. California law requires certain sellers of travel to have a trust account or bond. This business has a trust account.