

Banthem Outfitting LLC Participant Release of Liability, Waiver of Claims, Assumption of Risks and Indemnity Agreement for Fishing Services

In consideration of the services of Banthem Outfitting LLC its respective agents, owners, lessors, contractors, holding companies, shareholders, officers, volunteers, participants, employees, and all other persons or entities acting in any capacity on its behalf (hereinafter collectively referred to as Banthem Outfitting LLC), I hereby agree to the following acknowledgements and to discharge Banthem Outfitting LLC on behalf of myself, my parents, my children, my heirs, assigns, personal representatives and estate as follows:

1. **Inherent Risks**. I acknowledge that the following describes some, but not all, of the risks that I might encounter while at Banthem Outfitting LLC, facilities or permitted operations or while participating in activities at or through Banthem Outfitting LLC, I acknowledge that activities like fishing entail known, unknown and unanticipated risks that could result in physical or emotional injury, death, or damage to myself, to property, or to third parties. I understand and acknowledge that the enjoyment and excitement of this type of activity is derived in part from inherent risks created by activity beyond the accepted safety of life at home or in my normal day to day activities and that these inherent risks contribute to my enjoyment and excitement and are an integral reason for my participation in this activity. I understand that such risks simply cannot be eliminated without jeopardizing the essential qualities of the activities of this type of experience.

Fishing

I acknowledge that the inherent risks associated with the **boating/fishing** or other **water related activity** include, but are not limited to the fact that cold water activities can be strenuous and should not be participated in by persons with heart or cardiovascular ailments; I understand that prolonged exposure to cold water can result in hypothermia and in extreme cases death. It is possible that I could be injured if I come in contact with and be injured by fishing equipment/gear (waders, hooks, knives, poles, etc.) for either spin or fly fishing, food boxes, storage containers, oars or paddles or other fixed equipment necessary to the operation of the boats. The fishing equipment or boats may break down or be faulty; it is possible that loss of control of a boat could occur resulting in collision or capsizing or sinking and that if a watercraft turns over I could be "washed" overboard. Boats are slippery when wet and are naturally unstable so that I could slip and fall or be knocked out of the boat even in flat or non-moving water; accidents can occur getting on and off the boats. I can slip or fall during hiking, fishing, portaging, wading in the creeks or rivers or getting to and from the fishing or boating areas; I understand that the areas in which I might hike sometimes hide dangerous obstacles such as tree wells, tree stumps, creeks, rocks and boulders, forest dead fall, etc. I acknowledge that the boating and fishing lifestyle will require me to use equipment that I might not be familiar with and may require me to interact with other guests and participants with whom I am also unfamiliar; both of these things can cause my discomfort and stress and have inherent risks. I acknowledge that there are numerous other issues I may encounter, such as campfires and latrine issues which, while they seem open and obvious, also have inherent risks associated with them.

Food Preparation

I acknowledge that food preparation is an integral part of this activity and that I and other participants may be assisting in food preparations; some of the food may not be to my liking; there may be errors in food storage or preparation that could cause my dissatisfaction and or illness; I acknowledge my responsibility to inform Banthem Outfitting LLC of any specific food related allergies and I acknowledge that Banthem Outfitting LLC cannot be responsible for allergies, illness or diseases related to meals and food preparation. I acknowledge that the camping and traveling lifestyle will require me to use equipment that I might not be familiar with and may require me to interact with other guests and participants with whom I am also unfamiliar; both of these things can cause my discomfort and stress and have inherent risks. I acknowledge that there are numerous other issues I may encounter, such as campfires and latrine issues which, while they seem open and obvious, also have inherent risks associated with them.

Common Carrier

I acknowledge that Banthem Outfitting LLC is **not a Common Carrier** but rather is in the business of providing outdoor recreation activities. Transportation to and from activities is incidental to the activity. Transport by car, bus or van travel in some instances may be provided by Banthem Outfitting LLC and/or Banthem Outfitting LLC employees and may involve errors in judgment by Banthem Outfitting LLC or staff operating the vans, buses, cars or other type transport vehicles. The vehicles and transport trailers may malfunction, break down or be poorly maintained, causing injury, accidents, delays or in the extreme case, death. Transport may be provided by independent contractors to Banthem Outfitting LLC and may involve errors in judgment by those independent contractors.

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Floating

I acknowledge that the inherent risks associated with the **boating or pleasure floating** or other **water related activity** include, but are not limited to the fact that cold water activities can be strenuous and should not be participated in by persons with heart or cardiovascular ailments; I understand that prolonged exposure to cold water can result in hypothermia and in extreme cases death. It is possible that I could be injured if I come in contact with and be injured by equipment/gear (items typically found on a boat.) perhaps fishing gear, food boxes, storage containers, oars or paddles or other fixed equipment necessary to the operation of the boats. It is possible that loss of control of a boat could occur resulting in collision or capsizing or sinking and that if a watercraft turns over, I could be "washed" overboard. Boats are slippery when wet and are naturally unstable so that I could slip and fall or be knocked out of the boat even in flat or non-moving water; accidents can occur getting on and off the boats. I can slip or fall during hiking, swimming, fishing, portaging, wading in the creeks or rivers or getting to and from the fishing or boating areas; I understand that the areas in which I might float sometimes hide dangerous obstacles such as tree wells, tree stumps, creeks, rocks and boulders, forest dead fall, etc. I acknowledge that the boating and floating lifestyle will require me to use equipment that I might not be familiar with and may require me to interact with other guests and participants with whom I am also unfamiliar; both of these things can cause my discomfort and stress and have inherent risks. I acknowledge that there are numerous other issues I may encounter, such as campfires and latrine issues which, while they seem open and obvious, also have inherent risks associated with them.

I acknowledge that, in the remote locations used by Banthem Outfitting LLC participants may experience extreme **environmental** and/or weather conditions. Exposure to the natural elements can be uncomfortable and/or harmful and I am aware that this exposure could cause sunburn, dehydration, heat exhaustion, heat stroke, heat cramps or fatigue, some or all of which may diminish my or the other participants ability to react or respond. Delays or inconvenience because of inclement weather, including but not limited to low visibility, high winds, heavy rain or snow, extreme temperature variations, etc., can occur. Participants may encounter dangerous wildlife or insects and may encounter firearms or substances necessary to the control of these animals or insects.

By signing this Participant Release of Liability, Waiver of Claims, Assumption of Risks and Indemnity Agreement, I acknowledge that I AM ULTIMATELY RESPONSIBLE for my own safety during this Banthem Outfitting LLC fishing services.

Furthermore, **Banthem Outfitting LLC Guides** have difficult jobs to perform. They seek safety, but they are not infallible. They might be ignorant of a participant's fitness or abilities. They might misjudge the weather, the elements, or the terrain. They may give inadequate warnings or instructions and/or I as the participant may fail to understand the safety directions due to language issues. Further, I may encounter: the negligence or mis-behaviors of other visitors or participants who may be present, participants giving or following inappropriate advice, mine or others' failure to follow the rules of Banthem Outfitting LLC and/or my own negligence or inexperience, some or all of which may diminish my or the other participants' ability to react or respond. I also acknowledge that I have the responsibility to inspect any and all facilities or equipment to be used and to immediately advise Banthem Outfitting LLC of anything which I consider to be unsafe or to refuse to participate. With knowledge of all of these issues:

2. **Express Assumption of Risk**. As lawful consideration for my being allowed to participate in the activities offered by Banthem Outfitting LLC, I expressly agree on behalf of myself and any of the children for which I am responsible and promise on behalf of myself and any of the children for which I am responsible, to accept and assume **all** the risks existing in the Banthem Outfitting LLC, trip I/we are attending. My/our participation in this Banthem Outfitting LLC trip is purely voluntary, and I/we elect to participate in spite of the risks. I/we expressly agree that this Participant Release of Liability, Waiver of Claims, Assumption of Risk and Indemnity Agreement is contractual in nature, supported by Montana law and that I/we are signing it of my/our own free will.

3. **Release and Waiver of Rights Including for Claims of NEGLIGENCE** On behalf of myself and any of the children for which I am responsible I hereby voluntarily release, forever discharge, and agree to indemnify and hold harmless Banthem Outfitting LLC from any and all claims, demands, or causes of action, which are in any way connected with my participation in this activity or my/our use of Banthem Outfitting LLC's equipment or facilities, including any such Claims which allege negligent acts or omissions of Banthem Outfitting LLC.

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4. **Indemnity.** As liquidated damages, I agree that, should Banthem Outfitting LLC or anyone acting on their behalf, be required to incur attorney's fees and costs to enforce this agreement, I agree to indemnify and hold them harmless (in other words, pay for) for all such fees and costs.
5. **Personal Skill & Insurance.** I certify that myself and my family, including minor children, have sufficient skill and fitness to participate in the activities offered by Banthem Outfitting LLC. I/we further certify that I/we have no medical, mental or physical conditions which could interfere with my/our safety or ability to participate in these activities, or else I/we am willing to assume and bear the cost of all risks that may be created, directly or indirectly, by any such condition. I/we further certify that I/we have adequate insurance to cover any injury, damage or emergency transportation costs I/we may cause or suffer while participating, or else agree to bear the costs of such injury, damage or emergency transportation costs myself/ourselves. I understand that the Banthem Outfitting LLC reserves the right to deny me or any other person participation before or during an activity if it finds that person to be mentally or physically impaired or unprepared.
6. **Medical Issues.** I further agree that, in the event that Banthem Outfitting LLC deems it necessary to administer emergency first aid or CPR or to remove me from its activities or to extricate me from the field or from the remote venue in which these services are received for ANY type of health related reason that, by signing this document, I am giving Banthem Outfitting LLC permission to: administer emergency first aid or CPR, secure emergency transport or medical care and/or disclose any medical information it may have about me to any health care provider which may become involved in my care, treatment or removal from the field. By signing this document, I am waiving any right to object to or bring any type of action or claim against Banthem Outfitting LLC for its administration of emergency first aid or CPR or for securing emergency transport or medical care and/or for the disclosure of personal medical information it may have about me to any health-related person who becomes involved in my care or removal from Banthem Outfitting LLC activities or the field.
7. **Coronavirus.** I expressly acknowledge that naturally occurring disease processes (including but not limited to the currently widespread Coronavirus) occur in all environments in which this activity will take place. I acknowledge that, while Banthem Outfitting LLC has taken reasonable measures to avoid contact, transmittal or contamination of the viruses between people (including guests/participants, employees and other third parties), it is ultimately my responsibility to safeguard myself and others. I understand and agree that, if I choose to participate in this activity, that Banthem Outfitting LLC cannot and will not have any legal liabilities towards me if I contract any virus. Additionally, if it is determined that I acted negligently or unreasonably and was responsible for the Coronavirus (or any disease process) to other Banthem Outfitting LLC participants or employees or third parties, that I may be held legally and financially responsible for that transmittal.
8. **Photographic Assignment.** I understand that Banthem Outfitting LLC reserves the right to take photographic or film (of whatsoever nature) records of any or all of the activities conducted on its trips and I hereby agree that Banthem Outfitting LLC may use such records for promotional and/or commercial purposes without any remuneration to me. I hereby assign all right, title and interest I may have in or to any and all media in which my name or likeness might be used by Banthem Outfitting LLC.
9. **Release as Contract and Personal Capacity.** I expressly agree and acknowledge that the terms of this Participant Release of Liability, Waiver of Claims, Assumption of Risk and Indemnity Agreement is contractual in nature, supported by Montana law and that I am signing it of my own free will. I expressly acknowledge that I am not under the influence of drugs or alcohol at the time of my signing of this agreement and that there are no other impediments or reasons why I would lack the capacity to sign this document.
10. **Forum Selection, Severability, Breach of Contract/Warranty Waiver, Etc.** In the event I file a lawsuit against Banthem Outfitting LLC I agree to do so solely in the State of Montana, and I further agree that the substantive law of that state shall apply in that action without regard to the conflict of law rules of that state and I hereby irrevocably waive any other jurisdiction or venue to which I or my estate or my children's estates might otherwise have been entitled. I agree to submit to the jurisdiction of the Montana courts. I agree that if any portion of this agreement/contract is found to be void or unenforceable, the remaining portion shall remain in full force and effect; this document is intended to be interpreted as broadly as possible. A copy of this agreement can

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be used as if it was the original. I understand that this document constitutes the entire agreement between myself and Banthem Outfitting LLC and that it cannot be modified or changed in any way by representations or statements of any nature (be they vocal, advertising, etc.) outside of this document; in other words, I am also waiving any claims I might have for breach of contract or warranty for statements or representations made outside of this release contract.

By signing this document, I acknowledge for myself and any of the children I am responsible for that I/we may be waiving our legal right to a jury trial to hold the provider legally responsible for any injuries or damages resulting from risks inherent in the fishing activity or recreational opportunity or for any injuries or damages I/we may suffer due to the provider's ordinary negligence that are the result of the provider's failure to exercise reasonable care.

**I HAVE HAD SUFFICIENT OPPORTUNITY TO READ THIS ENTIRE DOCUMENT.
I HAVE READ AND UNDERSTOOD IT, AND I AGREE TO BE BOUND BY ITS TERMS.**

Participant Signature: _____ **Printed Name:** _____
Address: _____ **City:** _____ **State:** _____
Postal Code: _____ **Country:** _____ **E-mail address:** _____
Phone #: _____ **Date:** _____

Participant Signature: _____ **Printed Name:** _____
Address: _____ **City:** _____ **State:** _____
Postal Code: _____ **Country:** _____ **E-mail address:** _____
Phone #: _____ **Date:** _____

Parents or Guardians Additional Indemnification (Must be completed for participants under 18 years of age)

I/we represent that I/we have complete and absolute authority to bind, contract for and legally act on behalf of the minor child listed above; I/we believe and represent that I/we have the legal authority to make the waivers and releases contained herein. I/we understand and acknowledge that Banthem Outfitting LLC relies to its detriment on this representation and would not allow the minor child to participate in this trip without this representation. In consideration of _____ (print minor's name) (Minor) being permitted by Banthem Outfitting LLC to participate in its activities and to use its equipment and facilities, I further agree to indemnify and hold harmless Banthem Outfitting LLC from any and all claims which are brought by, or on behalf of Minor, and which are in any way connected with such use of participation by Minor.

Parent Signature: _____ **Printed Name:** _____ **Date:** _____

Parent Signature: _____ **Printed Name:** _____ **Date:** _____