

## **RELEASE OF LIABILITY, CONSENT FOR EXPOSURE TO DANGEROUS AND HAZARDOUS CONDITIONS, AND ASSUMPTION OF THE RISK**

PARTIES: The "Host" is X Bar Ranch Ltd. (d/b/a X Bar Ranch or X Bar Ranch Nature Retreat), its shareholders, lessors, officers, employees and agents. The "Guest" is the person or persons, whose name or names appears below, and any minors or dependents accompanying that person or persons.

RANCH (also referred to as the Premises): The land and the improvements situated on the X Bar Ranch in Schleicher County, Texas.

I (we) acknowledge and understand the Host makes no warranties, either express or implied, as to the condition and/or safety of the Premises and the improvements located thereon.

### **Warning of the Dangerous Conditions on Premises**

The dangerous conditions listed below serve to warn me (us) and make me (us) aware, appreciate and understand that dangerous conditions, risks and hazards exist, both obvious and latent, both natural and man-made, that can cause serious bodily injury or death and damage or destruction of my (our) personal property. My (our) presence and activities on the premises expose both me (us) and my (our) personal property to these dangerous conditions, risks and hazards, both obvious and latent and both natural and man-made, including, but not limited to, poisonous and non-poisonous snakes, insects and spiders, both native and exotic; (elevated) hunting blinds and tree stands, whether or not erected by Host; ditches, eroded areas, holes, uncovered wells, tanks and pits, steep inclines, sharp and jagged rocks located both on and off roadways and trails that create rough, hazardous and dangerous driving and walking conditions; thorny and prickly plants whether native or introduced; animals both wild and domestic that may be diseased and/or possessed with propensities to injure or kill; rushing and still water with perils lurking above and beneath the surface; persons with firearms and other lethal weapons both on or off the premises; the presence of bare electrical wires to restrain livestock; and the use of vehicles, boats and ATVs both on and off trails, roadways, waterways, ponds and lakes.

### **Waiver and Release of Claims**

In consideration for the right to enter the premises, I (we) hereby waive and release all claims and agree to indemnify, defend and hold harmless the Host named above, his or her (or the) respective owners, heirs, agents, employees and assigns from and against any and all claims, demands, causes of action and damages, including, but not limited to, court costs, judgments and attorneys' fees resulting from any accident, incident or occurrence arising out of, incidental to or in any way resulting from the use of or my (our) exposure to the conditions of the premises or the Host's active or passive negligent conduct thereon. These include, among other things, injury or death to the undersigned and damage or destruction of the undersigned's personal property. Also, I (we) hereby further covenant and agree that I (we), my (our) heirs, successors and assigns will not make any claim or institute any suit or action at law or in equity against the Host named above or his or her (or the) respective owners, heirs, agents, representatives, employees, successors or assigns by reason of the Host's active or passive negligent conduct or by reason of the condition(s) of the premises, whether natural or man-made and whether the condition is caused by the Host's active or passive negligence.

### **ASSUMPTION OF THE RISK**

Furthermore, I (we) declare I (we) are aware of *State v. Shumake*, 131 S.W. 3d 66 (Tex. App. – Austin 2003), affirmed, 2006 WL 17;16304 (Tex.2006) decided by the Texas Supreme Court in 2006. In that case, the landowner's failure to warn of an extremely dangerous man-made condition may give rise to a cause of action for gross negligence. I (we) hereby agree and declare that the "Warning of Dangerous Conditions on Premises" stated earlier **serves to warn me (us) of any actual and/or potentially dangerous natural or man-made** condition(s) that I (we) may reasonably expect to encounter on the premises that may cause serious bodily harm or death or cause damage to or destruction of my (our) personal property. I (we) hereby state that I am (we are) aware of the dangerous conditions, risks and hazards mentioned earlier and that I (we):

- (1) Understand and appreciate the nature and extent of the risks and dangers of being exposed to those and other associated dangerous conditions and
- (2) Voluntarily, expressly and knowingly consent to exposing myself (ourselves) and my (our) personal property to those and other associated dangerous conditions.

By affixing my (our) signature(s) below, I (we) knowingly and expressly **ASSUME THE RISK** of my (our) exposure to the dangerous conditions, risks and hazards expressed above. This assumption of the risk may be used by the Host as a defense in a court of law as outlined by the Texas Supreme Court in *Farley v. M.M. Cattle Co.*, 529 SW 2d 751, against any allegations either for negligence or gross negligence for failing to warn me (us) of any dangerous natural or man-made conditions that I am (we are) apt to encounter expectedly or unexpectedly on the premises. **This assumption of the risk does not extend to Host's reckless or intentional conduct.**

**The Severability Clause**

If any term, provision, covenant, release, assumption or condition of this agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

**Length of Agreement**

This Release and Assumption of the Risk Form applies during the time that I am (we are) permitted on the premises, now and in the future, and until this agreement is revoked in writing.

**Parental, Guardian and Supervisory Responsibility for Minors and Indemnification for Injuries or Deaths.**

In consideration for allowing \_\_\_\_\_ (enter the number in the blank) minor(s) to accompany me (us) on the premises, I (we) agree to keep close supervision of the minor(s) in my (our) watch and care at all times. I (we) further agree to indemnify the Host for all claims stemming from the injury and/or death of a minor or minors in my (our) watch and care caused by my (our) lack of or negligent supervision.

**Consent or Denial for Use of Testimonial, Pictures, Etc.**

In the event photographs, slides or videos are made of me (us) while on the premises, I (we) consent to the Host's use of the photographs, slides and videos in promoting and marketing the Host's business. Likewise, by sending any testimonials or pictures via letters, emails or otherwise of my (our) experiences on the premises to the Host, I (we) consent to the Host's using them in like manner.

\_\_\_\_\_ Yes, you may use the material; \_\_\_\_\_ No, you may not use the material

**List of Recent Accidents and Incidents Occurring on the Premises**

According to Texas Case law, the Host needs to warn guests of accidents and incidents occurring on the premises that may influence their decision to enter. The following is a list of all accidents and incidences that involved injury or death to a guest or to the damage or destruction of his or her personal property. The list covers all accidents and incidences occurring during the past two years: wasp / bee sting, sightings of snakes, both venomous and non-venomous, and scorpions, minor injuries as a result of mountain bike riding.

Dated and signed this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_.

\_\_\_\_\_  
Guest Signature

\_\_\_\_\_  
Guest Printed Name

\_\_\_\_\_  
Guest Signature

\_\_\_\_\_  
Guest Printed Name

Minors in my care (list name and age for each):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

