

Under The Sunny Skies, LLC d.b.a. Old Ben Aqua Park

INDEMNIFICATION AND RELEASE OF LIABILITY

In consideration of being allowed to use the facilities and participate in the Aqua Park, Zip Line course, laser tag, and other activities provided by Under The Sunny Skies, LLC, d.b.a. Old Ben Aqua Park ("OLD BEN"), the Participant and/or the Participant's parent or legal guardian if the Participant is a minor, do hereby agree as follows:

I, the undersigned Participant, am using Old Ben equipment and participating in Old Ben activities, including, but not limited to, the Floating Obstacle Course, Zip Lines, The Dome-High Ropes Course, Aqua Park, Stand Up Paddleboards, Kayaks, Pedal Boats, Laser tag and other activities (collectively, the "Activities"), at my own risk. I understand and acknowledge that there are inherent risks involved with the Activities, including, but not limited to, threats or contact with wildlife, bruises, scrapes, lacerations, burns, sprains, fractured or broken bones, as well as other head/brain, face, neck, back/spine injuries, including drowning and death and/or actual or alleged contracting of any communicable bacterial or viral based diseases, including COVID-19. I am also aware that using or participating in the Activities requires physical exertion and such exertion on the body may reinjure or aggravate pre-existing physical injuries, conditions, or congenital defects. I voluntarily assume these risks by signing below and participating in the Activities.

IN FULL RECOGNITION OF THE INHERENT RISKS INVOLVED WITH THE ACTIVITIES, WHICH RISKS I VOLUNTARILY ASSUME, I HEREBY INDEMNIFY, HOLD HARMLESS AND RELEASE OLD BEN, ITS MEMBERS, AGENTS, EMPLOYEES, OFFICERS, DIRECTORS, OWNERS AND/OR OPERATORS (COLLECTIVELY, "OLD BEN STAFF"), FROM ALL INJURIES, DAMAGES, CLAIMS, DEMANDS, AND/OR CAUSES OF ACTION (COLLECTIVELY, "CLAIMS"), FOR ANY LOSS, DAMAGE, ILLNESS OR INJURY, INCLUDING DROWNING AND DEATH, WHETHER SUSTAINED BY MYSELF, A MEMBER OF MY FAMILY OR MY PROPERTY HOWEVER CAUSED, INCLUDING, BUT NOT LIMITED TO, FAULT OR NEGLIGENCE (EXCEPT GROSS NEGLIGENCE, WILLFUL/WANTON OR INTENTIONAL CONDUCT, OR ILLEGAL ACTS) BY OLD BEN AND/OR OLD BEN STAFF IN CONNECTION, DIRECTLY OR INDIRECTLY, WITH THE ACTIVITIES. THIS INDEMNIFICATION AND RELEASE SHALL BE BINDING UPON ME, MY HEIRS, EXECUTORS, ADMINISTRATORS, AND/OR ASSIGNS.

I further agree that I am personally liable and responsible for paying OLD BEN for any and all damage to OLD BEN property that I may cause, whether caused negligently, recklessly or intentionally, while using or participating in the Activities, including, but not limited to, damage to any OLD BEN equipment or other OLD BEN property, any loss of OLD BEN equipment or loss of use of equipment, any claims for diminution in value of any OLD BEN equipment, and/or the cost of repair or replacing any OLD BEN equipment. I authorize OLD BEN, at OLD BEN'S discretion, to bill any such charges or costs directly to my credit card or to my account without further notice to me.

I understand and acknowledge that OLD BEN and the Activities are self-guided, and that I am required to attend a mandatory safety rules briefing prior to using or participating in any of the Activities. I understand that OLD BEN Staff are available to answer any questions I may have regarding OLD BEN equipment and/or proper use of such equipment.

I further understand and acknowledge that I am required to wear an OLD BEN provided and approved lifejacket or harness at all times while using or participating in the Activities. If I am unwilling or unable to follow the safety rules or wear a lifejacket while using or participating in the Activities, I understand and acknowledge that OLD BEN, at OLD BEN'S discretion, may immediately restrict my use of or participation in the Activities and/or require me to leave the OLD BEN AQUA PARK premises. I acknowledge that once I have completed the safety rules briefing, no refunds will be made for OLD BEN or the Activities.

I also waive and release any claims I may have related to the use of recorded media of me at OLD BEN including, without limitation, any right to approve any photos, videos or audio recordings of me, any claims of privacy, violation of the right of publicity, defamation, copyright infringement and/or collection of any compensation (fees) for use of such recorded media.

This Indemnification and Release shall be governed by the laws of the State of Indiana. I agree that any Claims I may bring against OLD BEN shall be submitted to the jurisdiction of the courts of Pike County, Indiana and that no Claims against OLD BEN shall be brought in any other jurisdiction. I also agree that if any part of this Indemnification and Release is deemed unenforceable, all remaining parts shall remain in full force and effect. I agree that OLD BEN has made no warranties, expressed or implied, to me beyond those, if any, contained in this Indemnification and Release.

I, THE UNDERSIGNED PARTICIPANT, HAVE READ AND UNDERSTAND THIS INDEMNIFICATION AND RELEASE OF LIABILITY. I UNDERSTAND THAT BY SIGNING THIS RELEASE AND USING OR PARTICIPATING IN THE ACTIVITIES, I HAVE WAIVED AND SURRENDERED CERTAIN LEGAL RIGHTS. I HAVE SIGNED THIS AGREEMENT VOLUNTARILY.

Signature of Participant: _____ Date: _____

Printed Name of Participant(s): _____

For minors place names here _____
and sign below _____

IF PARTICIPANT IS A MINOR (Under 18): Parent or Guardian must ALSO sign.

Parent/Guardian Signature: _____ Date: _____

Participant Address: _____

City: _____ State: _____ Zip: _____

Phone Number: _____ Email: _____

RULES AND REGULATIONS

All participants who visit OLD BEN must use common sense at our facility and encountering the features that we have provided for your enjoyment. If a participant has any questions, they should let the OLD BEN staff know right away. In addition, all persons must follow these rules when at OLD BEN

- Each guest or an authorized guardian for children under 18 years of age must complete an OLD BEN Release of Liability form before starting the course
- Guests must wear a USCG Personal Flotation Device (PFD) provided by OLD BEN and keep it buckled and zipped at all time
- Sharp objects (such as jewelry, hair pins, etc.) or other dangerous materials are not permitted
- Tobacco and alcohol are not permitted anywhere in the park.
- No refunds will be granted.
- Anyone who appears to be under the influence of drugs or alcohol may not participate in the OLD BEN
- Pregnant women are prohibited from going on the OLD BEN course
- The Host reserves the right to remove anyone who disregards the safety rules. There will be no refunds if such action is required.
- Old Ben Aqua Park reserves the right to close the park without warning at any time due to inclement weather deemed unsafe for guests. See website for rain check policy
- Failure to abide by posted OLD BEN rules may result in revoked privileges to participate.