



LIABILITY WAIVER AND RELEASE

1. Parties

- ✓ **1.1** This Liability Waiver and Release (this "Agreement") is entered into as of _____ (the "Effective Date"), by and between:
- 1.2** Operator: (**Carolina Warbird Experience owned and operated by, Clear Skies Property Mgt LLC**), organized and existing under the laws of the State of **Tennessee, North Carolina, and South Carolina**, with its principal place of business at **Sevier Co. TN (KGKT), Gaston Co. NC (KAKH), Myrtle Beach, SC. (KMYR)** (the "Operator").
- ✓ **1.3** Participant: _____, an individual residing at
Address: _____ (the "Participant").
- ✓ **1.4** If the Participant is under the age of eighteen (18) years on the Effective Date, then this Agreement must also be executed by the Participant's parent or legal guardian, whose details are as follows: _____, residing at address: _____ (the "Parent/Guardian").
- 1.5** All notices, communications, and contacts related to the Operator shall be directed to: Attention: **Carolina Warbird Experience**, at the address set forth in Section 1.2 above, or via email at **CarolinaWarbirdExperience@gmail.com**, or telephone at: **704-533-2918**.
- 1.6** All notices, communications, and contacts related to the Participant shall be directed to the address set forth in Section 1.3 above, or via email at _____, or telephone at _____.
- 1.7** If applicable, all notices, communications, and contacts related to the Parent/Guardian shall be directed to the address set forth in Section 1.4 above, or via email at _____, or telephone at _____.

2. Recitals

- 2.1** WHEREAS, the Operator operates and provides sightseeing and air tour flights (the "Activity") using aircraft of the type(s) specified as an (SNJ-5), along typical routes described as, (**Sight seeing tour and Warbird ride**), with each flight having a duration of approximately; **specific to tour chosen by participant(s)** and,
- 2.2** WHEREAS, the Activity may include special operations such as **Aerobatic Manuvers, Steep turns, Loops, Rolls, Low Passes; and**
- 2.3** WHEREAS, the Participant desires to participate in the Activity offered by the Operator; and
- 2.4** WHEREAS, the Operator requires the Participant to execute this Agreement as a condition precedent to permitting the Participant to engage in the Activity;
- 2.5** NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

3. Assumption of Risk

- 3.1** The Participant acknowledges and understands that the Activity involves inherent risks associated with air travel and aviation operations, including but not limited to turbulence, mechanical failure, pilot error, emergency landings, weather-related hazards, air traffic control issues, structural failure of the aircraft, collision with other aircraft or objects, and the risk of serious bodily injury, property damage, or death.
- 3.2** The Participant further acknowledges and understands that the Activity may involve additional risks specific to the aircraft type(s) and operations described in the Recitals, such as: **Experiencing G-Forces, Shoulder bruising, Dizziness, or Motion Sickness**.

3.3 The Participant voluntarily assumes all such risks, both known and unknown, and expressly agrees that the Operator shall not be liable for any injury, loss, or damage arising from or related to the Activity.

4. Release, Waiver, and Discharge

4.1 The Participant, on behalf of himself or herself, his or her heirs, executors, administrators, successors, and assigns, hereby irrevocably releases, waives, and forever discharges the Operator, its owners, officers, directors, pilots, employees, agents, contractors, affiliates, insurers, successors, and assigns (collectively, the "Released Parties") from any and all claims, liabilities, demands, actions, causes of action, damages, costs, or expenses, whether known or unknown, arising out of or in any way related to the Participant's participation in the Activity, including any claims based on the negligence of the Released Parties, to the fullest extent permitted by applicable law.

4.2 This release specifically includes, without limitation, any claims for personal injury, bodily injury, illness, death, property damage, loss of property, emotional distress, or any other loss or damage sustained by the Participant or any third party as a result of the Activity.

4.3 The Participant understands and agrees that this release is intended to be as broad and inclusive as permitted by the laws of the State of Tennessee, North Carolina, South Carolina, and that if any portion hereof is held invalid, the remainder shall continue in full force and effect.

5. Indemnification

5.1 The Participant agrees to indemnify, defend, and hold harmless the Released Parties from and against any and all claims, demands, actions, liabilities, losses, damages, costs, and expenses, including reasonable attorneys' fees, arising out of or related to any act, omission, negligence, or willful misconduct of the Participant, or any breach by the Participant of any provision of this Agreement, including any third-party claims resulting from the Participant's participation in the Activity.

6. Medical Fitness and Disclosure

6.1 The Participant represents and warrants that he or she is in good physical and mental health and is physically and mentally fit to participate in the Activity, and has not been advised by a qualified medical professional to refrain from participating in activities involving air travel or aviation.

6.2 The Participant further represents and warrants that he or she has disclosed to the Operator any and all medical conditions, including but not limited to heart conditions, respiratory issues, pregnancy, epilepsy, motion sickness, use of medications, alcohol or substance use, or any other condition that could affect the Participant's ability to safely participate in the Activity or respond to emergencies.

6.3 The Operator reserves the right, in its sole discretion, to refuse or terminate the Participant's participation in the Activity if the Operator determines, based on the disclosures or otherwise, that the Participant is unfit to participate.

7. Safety Rules and Compliance

7.1 The Participant agrees to comply with all safety rules, instructions, and directions provided by the Operator, its pilots, crew, and staff during the Activity.

7.2 The Participant agrees to comply with all applicable federal, state, and local laws, regulations, and aviation authority rules, including those promulgated by the Federal Aviation Administration (FAA).

7.3 The Operator reserves the right to deny boarding or terminate the Participant's participation in the Activity at any time, without refund, if the Participant fails to comply with any safety rule, instruction, or applicable law.

8. Photography and Media Release

8.1 The Participant hereby grants to the Operator the irrevocable and perpetual right to photograph, videotape, record, or otherwise capture the Participant's image, voice, and likeness during the Activity (the "Media").

8.2 The Participant authorizes the Operator to use, reproduce, distribute, display, and publish the Media for any promotional, marketing, operational, or commercial purpose, in any media now known or hereafter developed, without compensation or further notice to the Participant.

8.3 If the Participant does not consent to the use of the Media as described herein, the Participant must notify the Operator in writing prior to the Activity at CarolinaWarbirdExperience@gmail.com, and the Operator will make reasonable efforts to accommodate such opt-out.

9. Refunds and Cancellations

9.1 The Operator's policy on cancellations is as follows: Cancellations made by the Participant more than ***24hrs*** prior to the scheduled Activity date will receive a full refund; cancellations within such period will result in forfeiture of the payment for the Activity.

9.2 The Operator reserves the right to cancel or reschedule the Activity due to weather conditions, mechanical issues, regulatory requirements, or other unforeseen circumstances, in which case the Operator will offer a rescheduling option or refund at its discretion, but shall not be liable for any additional costs incurred by the Participant.

9.3 No refunds will be issued for no-shows or if the Participant is denied participation pursuant to Sections 6.3 or 7.3.

10. Limitation of Liability

10.1 To the maximum extent permitted by applicable law, the total liability of the Released Parties under this Agreement or in connection with the Activity shall not exceed the amount paid by the Participant to the Operator for the Activity, which amount is specified as **Price of Tour Chosen**.

10.2 The Participant acknowledges that certain liabilities, such as those arising from gross negligence, recklessness, or willful misconduct, may not be waivable under applicable law, and this Section shall not apply to such non-waivable liabilities.

11. Emergency Medical Treatment

11.1 In the event of an emergency during the Activity, the Participant hereby authorizes the Operator and the Released Parties to provide or arrange for emergency medical treatment, transportation, or surgery on behalf of the Participant as deemed necessary by the Operator or medical professionals.

11.2 The Participant agrees to bear all costs associated with any such medical treatment, transportation, or care, and releases the Released Parties from any liability related thereto.

12. Term

12.1 This Agreement shall become effective on the Effective Date and shall continue in full force and effect until the completion of the Activity, provided that the provisions relating to releases, waivers, indemnification, assumption of risk, and limitation of liability shall survive indefinitely thereafter.

13. Obligations

13.1 The Participant covenants to perform all obligations set forth in this Agreement, including but not limited to compliance with safety rules, disclosure of medical information, and assumption of risks.

13.2 The Operator covenants to provide the Activity in accordance with applicable laws and regulations, but makes no warranties regarding the outcome or safety of the Activity beyond what is expressly stated herein.

14. Payment

14.1 As consideration for permitting the Participant to engage in the Activity, the Participant shall pay to the Operator the sum of **\$400, \$600, \$1000 dollars** (the "Payment"), payable prior to the commencement of the Activity via the method specified by the Operator.

14.2 The Payment is non-refundable except as expressly provided in Section 9 herein.

14.3 All Payments are exclusive of any taxes, fees, or surcharges, which shall be the responsibility of the Participant.

15. Confidentiality and Intellectual Property

15.1 The Participant agrees to keep confidential any proprietary or sensitive information disclosed by the Operator regarding the Activity, operations, or aircraft, and shall not disclose such information without the Operator's prior written consent.

15.2 The Participant acknowledges that all intellectual property rights in the Media, as defined in Section 8, belong exclusively to the Operator, and the Participant's grant of rights therein does not confer any ownership interest to the Participant.

15.3 Upon termination or expiration of this Agreement, the Participant shall return or destroy any confidential information provided by the Operator.

16. Warranties

16.1 The Participant warrants and represents that all information provided to the Operator, including medical disclosures and contact details, is true, accurate, and complete to the best of the Participant's knowledge.

16.2 The Operator warrants that it holds all necessary licenses, permits, and insurance required to conduct the Activity in compliance with applicable laws.

16.3 EXCEPT AS EXPRESSLY PROVIDED HEREIN, THE OPERATOR MAKES NO WARRANTIES, EXPRESS OR IMPLIED, REGARDING THE ACTIVITY, INCLUDING ANY WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, OR NON-INFRINGEMENT.

17. Liability

17.1 The provisions of Sections 3, 4, 5, and 10 shall govern the allocation of liability between the parties, and the Participant expressly assumes all risks as set forth therein.

17.2 The Released Parties shall not be liable for any indirect, incidental, consequential, special, or punitive damages arising from or related to this Agreement or the Activity.

18. Termination

18.1 This Agreement may be terminated by the Operator immediately upon written notice to the Participant if the Participant breaches any provision hereof, including failure to comply with safety rules or providing false information.

18.2 Upon termination, all obligations of the parties shall cease, except for those provisions that by their terms survive termination, as set forth in Section 12.1.

18.3 The Participant may not terminate this Agreement unilaterally once the Activity has commenced.

19. Severability and Enforceability

19.1 If any provision of this Agreement is held to be invalid, illegal, or unenforceable by a court of competent jurisdiction, such provision shall be severed from this Agreement, and the remaining provisions shall continue in full force and effect.

19.2 The Participant acknowledges that the releases and waivers contained herein are intended to be enforced to the maximum extent permitted by applicable law, and the parties agree to reform any invalid provision to the extent necessary to make it valid and enforceable.

20. Governing Law and Jurisdiction

20.1 This Agreement shall be governed by and construed in accordance with the laws of the State of **Tennessee, North Carolina, and South Carolina**.

without regard to its conflict of laws principles.

20.2 Any dispute arising out of or related to this Agreement shall be subject to the exclusive jurisdiction of the state and federal courts located in **Tennessee, North Carolina, South Carolina**, and the Participant hereby submits to the personal jurisdiction of such courts.

21. Force Majeure

21.1 Neither party shall be liable for any failure or delay in performing its obligations under this Agreement if such failure or delay is caused by events beyond its reasonable control, including but not limited to acts of God, war, terrorism, strikes, embargoes, government orders, pandemics, or natural disasters.

21.2 The affected party shall notify the other party promptly of any such force majeure event and resume performance as soon as practicable.

22. Entire Agreement

22.1 This Agreement constitutes the entire understanding and agreement between the parties with respect to the subject matter hereof and supersedes all prior or contemporaneous agreements, representations, or understandings, whether oral or written.

22.2 No amendment or modification of this Agreement shall be valid unless in writing and signed by both parties.

23. Notices

23.1 All notices required or permitted under this Agreement shall be in writing and delivered personally, by certified mail, overnight courier, or email (with confirmation of receipt) to the addresses provided in Section 1.

23.2 Operator Notice Details: Carolina Warbird Experience.

Attn: Thomas Mann (Owner/Operator),

Email: Carolinawarbirdexperience@gmail.com.

Phone: (704)-533-2918.

✓ **23.3** Participant Notice Details: _____,

Attn: _____,

Address: _____,

Email: _____,

Copy to (optional): _____.

✓ **23.4** If applicable, Parent/Guardian Notice Details: _____,

Attn: _____,

Address: _____,

Email: _____,

Copy to (optional): _____.

23.5 Notices shall be deemed received upon personal delivery, three (3) days after mailing, one (1) day after courier delivery, or immediate upon email confirmation.

24.1 The Participant acknowledges having read and understood all FAA safety notices and guidelines applicable to the Activity, including those related to general aviation and air tours.

24.2 The Participant consents to any health screenings required by the Operator, including for communicable diseases such as COVID-19, and agrees to comply with all health and safety protocols during the Activity.

24.3 The Participant waives the right to participate in any class action against the Released Parties and agrees that any dispute arising hereunder shall be resolved solely through individual binding arbitration in accordance with the rules of the American Arbitration Association, conducted in **(Sevier County, Tennessee)**, without a jury trial. The prevailing party shall be entitled to recover reasonable attorneys' fees and costs.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

FOR OPERATOR

Name:

Thomas Mann / Carolina Warbird Experience

Title:

Owner / Pilot

Date:

Indefinite

Signature:

Thomas Mann

FOR PARTICIPANT

Name:

Date:

Signature:

IF APPLICABLE, FOR PARENT/GUARDIAN

Name:

Relationship:

Date:

Signature:
