



RELEASE OF LIABILITY, WAIVER OF CLAIMS, EXPRESS ASSUMPTION OF RISK AND INDEMNITY AGREEMENT

PLEASE READ AND BE CERTAIN YOU UNDERSTAND THE IMPLICATIONS OF SIGNING

EXPRESS ASSUMPTION OF RISK ASSOCIATED WITH DIVING AND RELATED ACTIVITIES

I do hereby affirm and acknowledge that I have been fully informed of the inherent hazards and risks associated with Snorkeling, Skin and/or Scuba diving. I fully understand that these risks can lead to severe injury and even loss of life. I understand that diving operations may be conducted at a site that is remote from a recompression chamber and competent medical assistance. Nevertheless, I choose to proceed even in the absence of a recompression chamber and competent medical assistance. Additionally, I understand that there are also risks associated with dive travel, including, but not limited to the possible injury or loss of life as a result of a dive boat accident, as well as travel to and from dive sites. Despite the potential hazards and dangers associated with the activity of diving, I wish to proceed and I freely accept and expressly assume all risk, dangers and hazards that may arise from diving activities which could result in personal injury, loss of life and property damage to me.

RELEASE OF LIABILITY, WAIVER OF CLAIMS AND INDEMNITY AGREEMENT:

In consideration of being allowed to participate in Snorkeling, Skin and/or Scuba Diving activities as well as the use of any of the facilities and the use of the equipment of the below listed releasees, I hereby agree as follows:

- 1. TO WAIVE AND RELEASE ANY AND ALL CLAIMS based upon negligence, active or passive with the exception of intentional, wanton or willful misconduct that I may have in the future against any of the following named persons or entities (hereafter referred to as Releasees): National Association of Underwater Instructors (NAUI): (Instructor/s) T & C / A (Facility/ies) Waterside Plaza LLC; Waterside Management Company LLC (Others) American Leisure Corp. 2. To release the releasees, their officers, directors, employees, representatives, agents and volunteers, from liability and responsibility, whatsoever, for any claims or causes of action that I, my estate, heirs, executors or assigns may have for personal injury, property damage or wrongful death arising from Snorkeling, Skin and / or Scuba diving activities whether caused by active or passive negligence of the releasees or otherwise with the exception of gross negligence. By executing this document, I agree to hold the releasees harmless for any injury or loss of life which may occur to me during Snorkeling, Skin and/or Scuba diving activities and/or instruction. 3. By entering into this agreement, I am not relying on any oral or written representation or statements made by the releasees, other than what is set forth in this agreement. I further agree that this Agreement shall be governed by and interpreted in accordance with the laws of the State of California, United States of America. 4. If any provision, section, subsection, clause or phrase of this release is found to be unenforceable or invalid, that portion shall be severed from this contract. The remainder of this contract will then be construed as though the unenforceable portion had never been contained in this document.

I hereby declare that I am of legal age and am competent to sign this Agreement or, if not, that my parent or legal guardian shall sign on my behalf, and that my parent or legal guardian is in complete understanding and concurrence with this agreement.

I HAVE READ THIS AGREEMENT, I UNDERSTAND IT, I AGREE TO BE BOUND BY IT.

Signature Of Participant _____ Date _____
Witness (Name) _____ Signature _____
Signature Of Parent Or Guardian If Participant Is A Minor, and by their signature they on my behalf release all claims that both they and I have. _____ Date _____
(Parent Signature if participant is a minor)

WAIVER REAFFIRMATION

I HAVE READ THIS AGREEMENT, I UNDERSTAND IT, I AGREE TO BE BOUND BY IT.

Signature Of Participant _____ Date _____
Witness (Name) _____ Signature _____
Signature Of Parent Or Guardian If Participant Is A Minor, and by their signature they on my behalf release all claims that both they and I have. _____ Date _____
(Parent Signature if participant is a minor)

INSTRUCTOR/LEADER CONFIRMATION

I HAVE REVIEWED THIS AGREEMENT AND CONFIRM THAT IT HAS BEEN PROPERLY COMPLETED.

Signature Of Instructor/Leader _____ Date _____

Please note the following excerpt from the "WARRANTIES FOR TRAINING"

"Each student shall be required to complete a medical history form at the beginning of training. The beginning of training is defined as the commencement of in-water training activities. A written release for each student must also be completed at the beginning of training."

Important Instructions

The proper presentation, completion and keeping of records are important considerations if the desired protection is to be afforded a practicing professional by a RELEASE OF LIABILITY, WAIVER OF CLAIMS, EXPRESS ASSUMPTION OF RISK AND INDEMNITY AGREEMENT. To ensure the completed agreement will be most valuable to you in case a claim of negligence is made against you, follow these steps.

1. Instruction- Webster's New Universal Unabridged Dictionary © 1994 defines "safe" as, "1. secure from liability to harm, injury, danger, or risk: *a safe place.*" Clearly scuba diving is not safe! One of the attractions of scuba diving is the adventure and "danger" of the activity. We can make diving "safer." We can minimize risk. In concept every diving instructional program is in reality a risk management program, in that, we develop the attitude, skills and knowledge necessary for the diver to participate in an adventure activity while minimizing the risks thereof.

2. Explain - An individual must be cognizant of the risks of an activity for which they are being asked to accept responsibility. Read the waiver and release agreement to the participants. Use the Risk Management video, item # 28005, to present the information during a scheduled orientation session to all prospective students. In circumstances where this is not feasible, such as an organized dive wherein participants are asked to sign a release prior to participating, cover the information fully by explaining the risks associated with diving and specifically the pending dive's location and planned activity so that individuals may make an informed decision to accept responsibility for their own safety.

3. Answer Questions - Leave ample time to ask for and answer any questions regarding the release and risks of the planned dive or instructional activity. Refer to #1 as the reason releases are necessary.

4. Accuracy - It is important from a legal perspective that those named in the release, instructors, students, divers being supervised, and other entities be identified by their full legal names (middle initials are acceptable). Do not use nicknames such as ScubaBob for the instructors or assistants or other variations like Jimmy for James. Also, list each instructor or assistant on staff by name, not just as "staff." Waiver and release agreement wording is based upon recent legal developments and legal counsel's review and must not be altered in any way.

5. Complete - The entire release must be completed. This is the reason for the confirming signature now required of the instructor/leader who collects and reviews the release agreements. The reaffirmation signature line may be used before the trainees' first open water training dive or when they are transferring to a continuing education course with the same instructor. In either case the instructor supervisor must complete steps 1 through 3 to ensure that students or divers understand and have an opportunity to withdraw from the activity should they not wish to accept the risks and responsibility of the activity.

6. Timing - Participants must be given an opportunity to withdraw from the activity should they not wish to accept the risks and responsibility of the activity. This decision to participate or not must be theirs, and be free from coercion or penalty - monetary or otherwise. Therefore, it is important that the release agreement review session be scheduled as far in advance of an activity as is possible.

7. Record Keeping - The TRAINING WARRANTIES state, "All records relating to individual students shall be retained for a minimum of five (5) years by the instructor and/or dive center." Use the Student Record Folder, item #80021, to ease the record keeping process. Master copies of the waiver and release agreements are also included in the Risk Management Handbook, item #12908, for your convenience. These are for use whenever students or divers are in the water and under your supervision.

8. Producing the waiver and agreement in the event of a claim - It is required, upon request by the Association or its representatives, that you be able to provide an original, completed, properly executed waiver and release agreement. This is expressed in the warranties of the insurance policy and in NAUI Standards and Policies.

9. In case of an incident - Refer to the Risk Management Handbook. There you will find accident management guidelines and a report form. Direct your completed report form and any questions you may have regarding an incident or the reporting form directly to NAUI's claims counsel. Doing so establishes attorney-client privilege. Submit a complete report as soon as possible to: *NAUI Legal Services, legal@nau.org, or (813) 384-3992 Fax.*

10. \$\$- A properly executed waiver protects you, the Association and the insurance program underwriters from claims made against you. The lack of same can result in significant monetary losses to all involved and could result in a restriction or denial of your coverage because of your violation of the policy's warranty regarding waivers. See the note at the bottom of the reverse side of the page.