

Southeastern Cave Conservancy, Inc.
Assumption of Risk – Waiver of Liability – Indemnification Agreement
(READ BEFORE SIGNING)

Southeastern Cave Conservancy, Inc. (hereafter referred to as **SCCi**) is an organization committed to acquiring and protecting caves throughout the Southeast – and further, dedicated to providing recreational access and caving opportunities for everyone. The Howards Waterfall Cave Preserve is available for your recreational and/or educational use. Most cave visits are unsupervised by **SCCi** with participants “on-their-own;” occasionally, guided group tours are offered. **SCCi** feels it is important that Adult Participants, Minor Participants, and Parents/Guardians of Minor Participants (hereafter referred to as **Participant/Parent**) understand that there are inherent risks associated with caving.

It is important that the **Participant/Parent** understand **SCCi** caves are not like the developed, maintained, and well-lighted commercial caves with which you are familiar; there are no paved paths with handrails and steps. **SCCi** caves are unimproved caves containing many dangers and inherent risks which can include, but are not limited to, the following: Terrain hazards include, but are not limited to, wet slippery floor surfaces, irregular and uneven footing, loose rocks, narrow ledges above deep drop-offs, open unprotected deep pits, pits that can be entered and exited only by rappelling climbing a rope, loose/falling rocks, potential cave-ins, and tight spaces requiring one to crawl. Isolation dangers include, but are not limited to, the cave is not manned by supervisory personnel, no one is here to warn you of specific dangers, medical or rescue help may be no closer than the nearest town, no quick medical help for a critical injury, and your cell phone will not work in the cave and probably will not work in the preserve. Equipment failures can include, but are not limited to, harnesses, ropes, bolts, or ascenders may break, equipment can be lost in a stream or pit, and your light can get wet and fail. External rainy conditions affect cave conditions; even at the best of times, caves can be cold, damp, and wet – rain outside the cave can make these worse causing increased seepage, more hazardous footing, flowing water, mud, and flash flooding. Mental considerations include, but are not limited to, the possibility of claustrophobia, panic, and disorientation; these can result from or be magnified if one is lost, gets separated from friends, or has a body part entrapped in a tight place. Animal or micro-organism life in the cave includes danger presented by snakes, ticks, spiders, rodents, mold, fungi and other wildlife. Water risks can include, but are not limited to, encountering flowing streams of water, deep pools, and flash floods. Finally, human error risks present an ever-present danger to the caver. These include, but are not limited to, *participant actions* or *co-participant actions* such as over-exertion, caving without experience or help, failure to have adequate equipment, inattentiveness, horseplay, using bad judgment, not following basic caving safety rules, and failing to recognize potential dangers. Other human error risks involve *tour leader* actions. These include, but are not limited to: inadvertent inattentiveness; temporary distraction; insufficient instruction; and failure to adequately warn. Note that all tour leaders are volunteers with caving experience, but have no special training regarding tours. Because of this, errors in judgment regarding progression, injury identification, teaching techniques, use of equipment, participant readiness, or emergency care may occur.

SCCi feels that it is important that the **Participant/Parent** understand that three types of injuries can occur. Minor injuries are the most common and include, but are not limited to, muscle soreness, headaches, sprains, abrasions, cuts, blisters, and bruises. Serious injuries are less common, but can occur occasionally. They include, but are not limited to, broken bones; concussions; hypothermia, joint injuries (e.g., torn ligaments, tendons, or cartilage), and breathing problems (e.g., histoplasmosis) from microorganisms, fungi, and mold. Catastrophic injuries are rare; but **SCCi** feels that every **Participant/Parent** should be aware of this possibility. These infrequent injuries include, but are not limited to, heart attack, stroke, permanent disability, brain injury, paralysis, blindness, and death (including by drowning).

Assumption of Inherent Risks: I, the **Participant/Parent**, have read the preceding paragraphs informing and reminding me of the fact that *SCCi* caves are undeveloped, natural caves containing many dangers. **I understand that all *SCCi* activities include inherent risks that cannot be eliminated** regardless of the care taken by *SCCi*. **I know, understand, and appreciate** the types of injuries inherent in *SCCi* activities. I hereby assert that **my participation (or that of my minor) is voluntary** and the **Participant/Parent knowingly assume all inherent risks of the activity.**

Waiver of Liability for Ordinary Negligence of *SCCi*: In consideration of permission to participate in *SCCi* activities, today and on all future dates, **I, the Participant/Parent**, on behalf of myself, my spouse, heirs, executors, administrators, personal or legal representatives, and assigns (hereafter referred to as the *Releasing Parties*) **do hereby waive, release, covenant not to sue and discharge Southeastern Cave Conservancy, Inc.,** Howards Waterfall Cave Preserve, any linked organizations (by Cooperative Management Agreement, Lease, or Joint Agreement to Manage), the property owner, executive director, board members, employees, volunteers, independent contractors, and organizational partners (hereafter referred to as the *Protected Parties*) **from liability from any and all claims, demands, and actions of every name and nature including those arising from 1) the ordinary NEGLIGENCE of *SCCi* or other *protected parties* and/or arising from 2) the presence of myself and/or MINOR PARTICIPANT on the premises of *SCCi* associated properties.**

This Assumption of Risk, Waiver, and Indemnity Agreement, applies to, but is not limited to, any of the following:

- Illnesses, personal injury (including death), and/or economic loss to the **Participant/Parent** arising from participation in guided cave tours, unguided individual or group caving, or other activities on the premises.
- Any and all claims resulting from the damage to, loss of, or theft of property.
- The release of *SCCi* from any claims and rights that **Participant/Parent** may have against *SCCi* now or in the future.

Indemnification: I, the **Participant/Parent**, also agree to hold harmless, defend, and indemnify *SCCi* and other *protected parties* (that is, defend and pay any judgment and costs, including investigation costs, attorney's fees, and related expenses) from **any and all claims** of *Releasing Parties* or others acting on behalf of **Participant/Parent**, arising from participation in *SCCi* Activities or presence on the premises, (including those **arising from the inherent risks** of the activity or the **ordinary negligence** of *Protected Parties*). I further agree to hold harmless, defend, and indemnify *SCCi* and *Protected Parties* against any and all claims of co-participants, rescuers, and others arising from the conduct of the participant while on the premises utilized for *SCCi* Activities.

Clarifying Clauses: I, the **Participant/Parent** confirm that:

- 1)** I understand that **this is the entire agreement** between *SCCi* and me and that it cannot be modified or changed in any way by representations or statements by any agent or employee of *SCCi*.
- 2)** The foregoing Assumption of Risk, Waiver of Liability, Indemnification Agreement, and Covenant Not to Sue is intended to be as broad and **inclusive as is permitted by the laws** of the State of Tennessee and that **if any portion thereof is held invalid**, it is agreed that the balance shall continue in full legal force and effect.
- 3)** If legal action is brought, either the appropriate state trial court for Hamilton County, Tennessee, or the United States District Court for the Eastern District of Tennessee has the **sole and exclusive jurisdiction** and that only the substantive laws of the State of Tennessee shall apply.

Acknowledgements Relating to Participant and Cave Safety:

I, the **Participant/Parent**,

- Know the federal and state laws regarding use of caves and agree to adhere to the law and treat the fragile cave ecosystem with care.
- Understand clean caving procedures and agree to follow the clean caving procedures outlined here: <http://www.scci.org/clean-caving-procedures/>
- Understand I should NEVER cave alone and that three or more in a party is recommended.
- Know that I should let one or more persons know when and where I am caving as well as when I expect to return.

Health Status. The **Participant/Parent** affirms that he or she:

- Is entering an unsupervised, unlit, unimproved cave and is assuming total responsibility for his or her own safety.
- Possesses the required skills, health & fitness level, and knowledge to safely participate in caving.
- Possesses no health problems or physical disabilities that would make *SCCi* participation unwise or risk injury.
- Understands that *SCCi* advises all participants to seek medical clearance prior to participation.
- Understands that in event of an accident or illness, there is no emergency help immediately available.

Rules and Safety. The **Participant/Parent** agrees:

- To wear a safety helmet (with a light) and any other recommended safety gear.
- To follow all rules of the activity and of *SCCi*.
- That *SCCi* has authority to restrict my participation if it endangers me, other participants, or the cave.

Medical Care for Guided Tours. The **Participant/Parent** affirms that he or she:

- Authorizes the use of first aid or CPR by *SCCi* authorities if *SCCi* deems it is needed.
- Authorizes *SCCi* to secure emergency medical care and transport if deemed necessary.
- Agrees to assume all cost of emergency care and transportation.

Photo/Video Release. The **Participant/Parent** affirms:

- That *SCCi* has permission to take photos and/or videos of the participant during *SCCi* activities and may use such for promotion, advertising, and marketing.

ADULT PARTICIPANT

Acknowledgement of Understanding: I, the Adult PARTICIPANT have read this Agreement and understand that I am **giving up substantial rights**, including my right to sue for damages in the event of death, injury, or loss. I acknowledge that I am **voluntarily signing** this agreement, and **intend my signature to be a complete release of all liability, including that due to the INHERENT RISKS of SCCi Activities or the ORDINARY NEGLIGENCE of the Protected Parties**, to the greatest extent allowed by laws of the State of Tennessee.

Name of Adult Participant (Please Print)

Signature of Adult Participant

Date

Emergency Contact Name

Relationship

Phone

PARENT/GUARDIAN of a MINOR PARTICIPANT

Acknowledgement of Understanding: I, the Parent/Legal Guardian of the minor listed below, hereby grant my minor child permission to participate in all SCCi Activities. I realize that I am agreeing to let my child engage in a potentially dangerous activity. Further, **I have read and fully understand this SCCi Assumption of Risk, Waiver of Liability, and Indemnification Agreement**, and agree to be bound by this agreement on behalf of myself, my spouse, the minor child, and any party filing on behalf of the minor child. I understand that I am releasing both my right and the right of my minor child to sue for damages in the event of injury, death, or financial loss. I intend **my signature to be a complete release of all liability, including that due to the Inherent Risks of SCCi Activities or the Ordinary Negligence of the Protected Parties**, to the greatest extent allowed by laws of the State of Tennessee.

*Additionally, I, the Parent/Guardian of the minor child, assert that I **have explained the inherent risks of SCCi Activities** to my minor child and that the minor understands this Agreement. The following signature of the minor is to **affirm understanding of the inherent risks of SCCi Activities and the voluntary assumption of these risks.***

Name of Minor Participant _____ Date of Birth ___/___/____

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Name of Minor Participant _____ Date of Birth ___/___/____

Name of Parent/Guardian of Minor (Please Print) _____

Signature of Parent/Guardian _____ Date ___/___/____