

**PASSENGER RELEASE AND WAIVER OF LIABILITY,  
ASSUMPTION OF RISK AND INDEMNITY**

IN CONSIDERATION of being permitted to participate in the Mountaineer Balloon Festival® ballooning activities, including, but not limited to, ingress, egress of the balloon basket, take off, preparation for flight, flight, related operations of balloon flight, tether operations, the ground instruction, ground handling related activities, landing, transportation from the landing site and any other activities related to the hot air balloon ride (hereinafter collectively referred to as the “Balloon Activities”), I, hereby agree as follows:

**1. I understand and acknowledge that this Agreement limits my legal rights and I have read this document carefully. I am aware that the Balloon Activities that I am participating in involve inherent risks and have an element of risk which combined with the forces of nature or acts, potential acts of God, or acts and/or omissions by participants or others, could lead to injury or even death. I understand and acknowledge that this document is intended to be a waiver and release of any and all claims arising out of Balloon Activities.**

2. I, for myself and for my heirs, next of kin, assigns, successors, executors, administrators, and legal representatives (collectively “Releasor”) hereby fully and forever release and covenant not to sue the Mylan Park Foundation, Inc., as organizer of this festival, its employees, agents, officers, directors, as well as the Mountaineer Balloon Festival sponsors, volunteers and consultants (hereinafter collectively referred to as the “Released Parties”) for/from any and all liability, suits, causes of action, loss or damage, and any claim or demands therefore in any way connected to, on account of, arising out of, or related to, my participation in Balloon Activities or otherwise, when caused by the negligence of the Released Parties or otherwise.

3. Releasor also agrees to **INDEMNIFY AND HOLD EACH OF THE RELEASED PARTIES HARMLESS** from all claims, judgments and costs, including attorneys’ fees incurred or arising out of any claim, suit, demand or other action brought by anyone against Released Parties, as a result of or related to my participation in the Balloon Activities, *including without limitation for any claim, suit, demand or other action arising out of the negligence of any of the Released Parties.*

4. Releasor understands and acknowledges that the Balloon Activities have inherent dangers that no amount of care, caution, instruction or expertise can eliminate, including without limitation serious injury or death. I also understand and acknowledge that the **hazards include, but are not limited to** collision with the ground upon landing or collision with objects on the ground both manmade and natural, that when landing it is not unusual for the balloon basket to tip on its side subjecting the passenger(s) to physical contact with each other and the sides of the basket and fuel tanks. The degree of force will vary depending on wind speed and rate of descent of the balloon, **neither of which can be fully determined in advance of the flight or controlled by the pilot.** Under normal landing conditions, some bruises and/or abrasions are possible. While walking to or from the balloon basket there will be irregularities in terrain or manmade obstacles **that could cause injury to me or my family if I am not personally vigilant to avoid them.**

5. I represent that I am healthy and have no physical or mental limitations, disabilities or infirmities that would restrict or impair my full participation in the Balloon Activities. I understand and acknowledge that balloon flight is not recommended for, among others, those under age ten (10) or over age eighty (80), pregnant women, persons with osteoporosis, recent trauma or surgery, people taking blood thinners and people with heart conditions, or physical infirmities. Passengers must also be able to enter and exit the basket unassisted.

6. I understand and acknowledge that hot air ballooning is a participatory activity and it is important that I receive and understand the passenger briefing presented by the pilot and/or his/her crew. I understand and acknowledge that in the event that the pilot and/or his/her crew does not offer a preflight passenger briefing I will demand information regarding a passenger briefing, including but not limited to, a warning not to smoke in or near the aircraft, stay clear of the inflator fan, not to enter or exit the basket until the pilot invites you to do so, to enter the basket carefully with assistance, if necessary, not to touch the fuel hoses, propane tanks or aircraft instruments, not to touch the cables, to keep my hands and arms inside the basket at all times and any and all preparation for landing instructions.

7. Nothing herein shall be construed to release the Released Parties from gross negligence or willful misconduct.

8. Releasor understands and acknowledges that the Released Parties do not own, operate, nor are they responsible for the safety and the maintenance of the hot air balloons, nor have they made any evaluation of the hot air balloon and/or its equipment.

9. It is understood that this Agreement is a West Virginia Contract, and that it is to be governed by the law of the State of West Virginia. I hereby submit myself to the jurisdiction of the Circuit Court of Monongalia County, West Virginia, concerning any claims arising out of the 2009 Mountaineer Balloon Festival® or this Agreement.

10. If any part of this Agreement and Release of Liability is declared invalid or unenforceable by a court of law, that party will be deemed struck and the remainder of this Agreement and the Release of Liability shall remain in full force and effect.

**I HAVE CAREFULLY READ THE ABOVE** Release and Waiver of Liability, Assumption of Risk And Indemnity, and I fully understand its contents and sign it of my own free will.

Participant Name (Please PRINT name): \_\_\_\_\_

Participant Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**If participant is under eighteen (18) years of age:**

I, the undersigned, represent that I, (PRINT Name): \_\_\_\_\_ am

the parent or legal guardian of (PRINT Name): \_\_\_\_\_, and consent and agree to this Agreement on his/her behalf, and for myself, and for his/her/my heirs, next of kin, assigns, successors, executors, administrators, and legal representatives.

Parent/Guardian Signature: \_\_\_\_\_ Date: \_\_\_\_\_