



Contract of Participation

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Rule I. Introduction

A. Application of Conditions of Contract

- (1) Adventure activities provided by Chattahoochee Rafting Company, Inc, TN Whitewater, LLC, Ski Celebration Holdings, LLC, and/or Whitewater Express, Inc. (hereafter "Whitewater Express") are subject to the following terms and conditions, in addition to any terms and conditions printed on any Ticket, Confirmation, or specified on the Whitewater Express's website. The terms and conditions contained in this Contract of Participation shall govern all published routes and services provided by the Whitewater Express as well as all fares and charges published by the Whitewater Express. This Contract of Participation is subject to applicable laws, regulations and rules imposed by U.S. or state governmental agencies. In the event of a conflict between the terms of this Contract and such applicable laws, regulations or rules, the latter shall apply. By making a reservation or participating in an activity, the Guest agrees to be bound by all of the following terms and conditions.
- (2) Whitewater Express reserves the right, in its sole discretion and to the extent not prohibited by applicable law, to change, delete, or add to any of the terms of this Contract of Participation without prior notice. All changes must be in writing and approved by a corporate officer of the Whitewater Express. To the extent there is a conflict between the Contract of Participation and information printed on the Ticket or specified on the Whitewater Express's website, this Contract of Participation governs.
- (3) Applicable terms and conditions are those in effect as of the date a Guest commences participation on a given itinerary. In the event these conditions of Participation are amended after a Ticket is purchased but prior to commencement of participation in a way that substantially affects the terms and conditions of a Guest's Participation, a full refund of the Ticket price may be requested if the Guest does not agree to be bound by the conditions as amended.

B. Definitions

"Fare Component" means where more than one such fare is used in construction of the total fare for an itinerary.

"Force Majeure Event" means any event outside of Whitewater Express's control, including, without limitation, acts of God, and meteorological events, such as storms, rain, wind, fire, fog, flooding, earthquakes, haze, or volcanic eruption. It also includes, without limitation, government action, disturbances or potentially volatile international conditions, civil commotions, riots, embargoes, wars, or hostilities, whether actual, threatened, or reported, strikes, work stoppage, slowdown, lockout or any other labor related dispute involving or affecting Whitewater Express's service, mechanical difficulties by entities other than Whitewater Express, the inability to obtain labor for the trip in question, unpredictability or deviation from scheduled water releases, or any fact not reasonably foreseen, anticipated or predicted by Whitewater Express.

"Group" means an assemblage of ten or more customers that have booked under a single reservation and paid by a single coordinating party.

"Guest" means any person, except employees of Whitewater Express working on the trip, which is carried or will be carried in a raft with the consent of Whitewater Express and is bound by this Contract of Participation.

"Nonrevenue Guest" means a Guest who is participating on a substantially reduced-rate pass of any kind (e.g., employee participation, buddy/guest pass, dependent pass or other industry employee pass).

"Participation" means the participation of Guests, gratuitously or for hire, and all services of Whitewater Express related thereto.

"Participation Credit" means the value authorized by Whitewater Express to be used towards payment for a future activity. Said Credit must be used within 365 days of issuance. Under no circumstance may a Participation Credit or any portion thereof be refunded for cash or by credit card adjustment.

“Participation Pass” means a document or object issued by Whitewater Express which represents the Guest’s authorization to participate in the Activity. Participation Passes may be obtained at ticket counters.

“Scheduled Service” means any current or future trip published on Whitewater Express’s website or in computer reservation system used by Whitewater Express.

“Ticket” means the electronic six-digit alpha-numeric confirmation number issued by Whitewater Express, which provides for the Participation of a single Guest in a specific activity.

“Trip” means an activity conducted on a specific date at a specific time, at a specific location, with a certain style and/or specific equipment.

“Whitewater Express” means Chattahoochee Rafting Company, Inc, TN Whitewater, LLC, Ski Celebration Holdings, LLC, and/or Whitewater Express, Inc and their respective officers, employees, contractors and agents acting in their official capacities.

Rule II. Reservations

A. Reservations

- (1) Confirmation of Reservations. A reservation on a given trip is confirmed by the issuance of a Ticket and one of the following:
 - a. Full tender of the applicable Fare and any pertinent fees; or,
 - b. Compliance with the terms of a payment plan; or,
 - c. Entry into a credit arrangement approved by a corporate officer of Whitewater Express.
- (2) Payment Plan Default Cancellation. Whitewater Express reserves the right to cancel any reservation where a payment plan is in default. In the event that a reservation is cancelled by reason of default all sums paid will be converted to a Participation Credit to be used within the next 365 days.
- (3) Cancellation of Confirmed Reservations.
 - a. Guest Initiated Cancellation Prior to Date of Participation. If a Guest cancels their reservation no later than the day prior to the date of participation, funds tendered will be made available for future use or refund consistent with the fare rule and procedures specified in Rule IV.C.
 - b. Check-in Requirements. Failure of the Guest to obtain a Participation Pass and be present, available, and appropriate as discussed in Rule V at least ten minutes before the scheduled activity time may result in cancellation, at the Whitewater Express’s sole discretion, of the Guest’s reservation without notice.
- (4) No Show Policy.
 - a. If a Discounted Fare Component on a reservation is not changed or canceled at least sixty (60) minutes prior to the activity and the Customer does not participate, the Ticket is canceled, and funds associated with that Trip are forfeited.
 - b. If a Full Fare Component on a reservation is not changed or canceled at least sixty (60) minutes prior to the activity and the Customer does not participate. The funds associated with the Full Fare Segment(s) are held as Participation Credit for use by the Guest. Under no circumstances shall any cash refund or credit card adjustment be given.
 - c. When a ticket contains multiple Segments with mixed fare types and the ticket is not changed or canceled at least sixty (60) minutes prior to the first activity and the Customer does not participate, the funds associated with the ticket are forfeited.
- (5) When a ticket is purchased using reward points or a Season Pass and the ticket is not changed or canceled at least four (4) hours prior to the activity and the Customer does not participate, all segments associated with the reservation are canceled, any reward points used will be forfeited and the Season

Pass may be cancelled. Taxes and fees associated with rewards points or Season Pass tickets follow the aforementioned rules under Rule II.A.4.(a), (b), and (c).

- (6) Conditions Beyond Whitewater Express's Control. Whitewater Express will refuse to carry and will cancel the reservations of any Guest when such refusal is necessary to comply with any controlling regulation or when necessary or advisable by reason of weather, Force Majeure Event, or any other condition beyond Whitewater Express's control.
- (7) Limitation of Liability. Whitewater Express is not liable for any type of special, incidental or consequential damages when it cancels the reservations of any Guest pursuant to Rule II.A.; however, the fare paid for the unused portions of participation that are canceled by Whitewater Express may be applied toward the purchase of future participation in accordance with the applicable fare rules and Rule IV.C.

B. Payment Plans

- (1) All payment plans require a non-refundable deposit of at least 10% of the expected total for the proposed itinerary (a minimum of \$300) to be due within two weeks of the date of initial reservation.
- (2) The full tender of the applicable Fare and any pertinent fees must be received no later than two weeks before the start of the first activity on an itinerary.
- (3) Time is of the essence for payment plans. Guests are responsible for taking into account any postal or other delays in delivery of payment.

C. Group Policies

- (1) Reservations must be made as a group through the Whitewater Express's Group Sales Department or online at our website, and all applicable group policies and procedures must be followed.
- (2) Group reservations must comply with all payment plan terms. Failure to comply with payment plans may result in cancellation of a Reservation under Rule II.A.(2).
- (3) Whitewater Express reserves the right to:
 - a. Limit seats by trip for group reservations.
 - b. Make changes to group reservations to accommodate Whitewater Express's schedule.
 - c. Not accept group reservations.
 - d. Require that group reservations be converted to ticketed individual reservations at the applicable individual fare or be forfeited if group reservation utilization reveals what Whitewater Express considers, in its sole discretion, to be an inadequate usage of reserved seats.

RULE III. Fares

A. Application of Fares

- (1) Participation is subject to the fares and charges in effect when the Ticket is purchased. The fare is guaranteed once a reservation is made and a Ticket is purchased. If a Ticket is purchased before an increase in the fare becomes effective, the Ticket shall be honored for participation at the fare for which it was purchased.
- (2) Changes to any portion of a Ticket initiated by the purchaser, Guest, or their authorized agent after its original issue will be subject to the fares, fare rules, tax increases, and charges in effect on the date the change is initiated. A change constitutes a change trip date, trip time, activity, trip type, or fare.

Ticket changes and exchanges within the same reservation will result in the initial Ticket being applied as the form of payment for the new ticket.
- (3) Fares may be obtained on website, through the mobile booking app; from Whitewater Express by telephone at 1-800-676-7238 (1-800-676-RAFT); or through an authorized ticketing agent.

(4) All published fares and charges are stated in U.S. currency.

B. Special Fares

(1) Military Fares

- a. United States military personnel and veterans or their authorized dependents are eligible for Military Fares. Military dependents seven through 11 years old must be accompanied by a military Guest or a military dependent Guest at least 12 years of age.
- b. Military Fares are not available on online and may only be purchased by calling Whitewater Express or visiting a Whitewater Express ticket counter. Since eligibility verification is required.

(2) Discount Fares are any fare that is less than the maximum published individual rate. Special fares may have additional requirements that must be met by the Guest. All Discount Fares are restricted and nonrefundable fares. Unused tendered funds may only be used toward the purchase of future Tickets as long as the Guest has canceled the confirmed reservation at least sixty (60) minutes prior to the scheduled the activity time. Guests who do not cancel their confirmed reservation and do not participate will forfeit any tendered funds pursuant to Rule II A.(4).a.

RULE IV. Tickets

A. Tickets

(1) No person shall be entitled to participation except upon presentation of a valid Ticket and/or proof of identification acceptable to Whitewater Express to confirm that a Ticket has been purchased. Such Ticket shall entitle the Guest to participation subject to this Contract of Participation and, in particular, certain terms and conditions as follows.

- a. Such Ticket is valid.
- b. Guest is in compliance with fare requirements as provided in Rule III.(B), including proof of age and status where applicable, that entitle the Guest to a special fare.
- c. Guest is in compliance with any other requirements of the Guest's Fare.
- d. The Guest's Ticket is in the Guest's own name.
- e. The Ticket has not been altered or improperly issued.

(2) Tickets are Nontransferable. Tickets, and any participation credit issued for unused Tickets, are nontransferable unless specified explicitly on the Ticket. Whitewater Express is not liable to the holder of a Ticket for use or refund of such Ticket when presented by a person other than the person to whom the Ticket was issued. If a Ticket is used by a person other than the person to whom it was issued, Whitewater Express shall not be liable for the death or injury of such unauthorized person arising from or in connection with such unauthorized use.

(3) A Ticket may be considered improperly issued if the Guest has not tendered payment in full and has not entered into a credit arrangement approved by of a corporate officer of Whitewater Express.

B. Ticket Acceptability

(1) Tickets Accepted. Whitewater Express will accept only its own Tickets.

(2) In the event that a Guest does not comply with the terms and conditions in this Contract of Participation, his Ticket shall be invalidated, and Whitewater Express has the right to:

- a. Cancel any remaining portions of the Guest's itinerary.
- b. Refuse to allow the Guest to participate.
- c. Void the Ticket and declare any sums paid to be forfeit.

C. Refunds

(1) Refundable Tickets.

- a. Ticket changes and exchanges within the same reservation will result in the initial Ticket being applied as the form of payment for the new Ticket. The fare paid for unused activity by Guests who purchase fully refundable, unrestricted Tickets, including use fees, booking fees, and other charges, may, for any reason and upon surrender or cancellation of the unused Ticket, either be refunded if canceled and refunded instead of exchanging or changing the Ticket or applied as participation credit toward the purchase of future participation for the originally ticketed Guest in accordance with the form of payment utilized for the Ticket. Such refund or participation credit must be requested prior the commencement of the activity covered by the Ticket. Refund or credit requests will not be honored after the commencement of the activity covered by the Ticket.
- b. If a Full Fare segment on a reservation is not changed or canceled at least sixty (60) minutes prior to the activity and the Customer does not participate, the funds associated with the fully refundable fare segment(s) will converted to a Participation Credit for use by the Guest on a future trip by Whitewater Express.
- c. When the Ticket combines a fully refundable fare with a Discount fare and the Guest does not participation on the Discounted segment and has not canceled the reservation at least sixty (60) minutes prior to the scheduled activity time, all unused participation funds will be forfeited or held in accordance with Rule II.A.(2).(c).
- d. Eligible fare refunds procedures:
 - i. When no portion of the activity has been provided, the refund or credit will be issued in an amount equal to the fare paid.
 - ii. When a portion of the itinerary has been provided, the refund or credit will be made in an amount equal to the difference, if any, between the total fare paid and the fare applicable to the activity provided.
 - iii. Whitewater Express shall make eligible refunds in the same form as the original payment.

Refunds for Tickets purchased with a credit card shall be processed for crediting to the same credit card account no later than seven business days from the date the refund request is received by Whitewater Express. Refunds for Tickets purchased with cash will be issued by check no later than 20 business days after the refund request is received by Whitewater Express. Refunds for tickets purchased with an exchanged ticket will be processed to the form of a participation credit for use by the Guest on Whitewater Express.
 - iv. Whitewater Express shall make all refunds in U.S. dollars.

(2) Nonrefundable Tickets.

- a. General. The fare paid for unused participation by Guests who purchase restricted, nonrefundable Tickets are not eligible for refunds, except as provided in this Rule or Rule VII. However, use fees, booking fees, and other non-fare charges associated with a nonrefundable fare are not eligible for refund.
- b. Participation Credit. Unless otherwise stated by Whitewater Express, the fare paid for unused nonrefundable Tickets, including use fees, booking fees, and other non-fare charges may be applied toward the purchase of future participation on Whitewater Express for the originally ticketed Guest only. The new Ticket may be more or less expensive or subject to different terms, conditions, or restrictions from the original Ticket. If the fare is lower, participation credit will be issued for the difference. No cash refund or credit card adjustments will be made for nonrefundable Tickets.

- c. Participation Credit Eligibility. The expiration date of any participation credit will apply to any Tickets purchased with these funds. If a Ticket is purchased with multiple participation credits, the earliest expiration date will apply to the entire Ticket.
- d. Participation Credit Forfeiture. Should a Guest fail to apply the nonrefundable Ticket or participation credit toward the purchase of future participation within the eligibility period, the entire amount of the fare, including all use taxes, booking fees, and other charges, will be forfeited.

Rule V. Check-in

A. Participation Passes

- (1) Participation Passes may be obtained from Whitewater Express at Ticket counters upon the receipt of a properly executed and unaltered Waiver of Liability in the form prescribed by Whitewater Express.
- (2) A Participation Pass that has been altered or improperly issued shall not be valid and will not be accepted by Whitewater Express.
- (3) Participation Passes are nontransferable unless explicitly stated on the Participation Pass. Whitewater Express is not liable to the holder of a Participation Pass for use of such Participation Pass when presented by a person other than the person to whom it was issued. If a Participation Pass is used by a person other than the person to whom it was issued, Whitewater Express shall not be liable for the loss, destruction, damage or delay of such unauthorized person's personal property or the death or injury of such unauthorized person arising from or in connection with such unauthorized use.

B. Check-in Requirements

- (1) Ten-Minute Rule. Failure of a Guest to obtain a Participation Pass and be present, available, and in compliance with Rule VI for the activity in the activity's assembly area at least ten minutes before the scheduled start time. Failure to comply with this paragraph may result in cancellation of the Guest's reservation without notice at the Whitewater Express's sole discretion.
- (2) Early Departure. Whitewater Express reserves the right, in its sole discretion, to depart early when all Guests who have met the check-in requirements as outlined in Rule V.B.(1) are in the assembly area. The scheduled departure times as published for the trip will not be changed or otherwise affected if the Whitewater Express departs early. It is the Guest's responsibility to arrive at the company's location with adequate time to allow for check-in requirements and any safety briefings.

Rule VI. Participation of Guests

A. Refusal of Participation

Whitewater Express may, in its sole discretion, refuse to allow participation, or may remove from an activity at any point, any Guest in any of the circumstances listed below. The fare of any Guest refused participation or removed from an activity under the provisions of this Rule will be forfeit. The sole recourse of any Guest refused participation or removed from an activity shall be governed by this Rule. Under no circumstances shall Whitewater Express be liable to any Guest for any type of special, incidental, or consequential damages.

- (1) Safety. Whenever such action is necessary, with or without notice, for reasons of trip safety.
- (2) Force Majeure Event: Whenever due to the occurrence of a Force Majeure Event as defined in Rule I.B.
- (3) Regulator Request, Governmental Regulation, or Permit Requirement. Whenever such action is necessary to comply with:
 - a. Requests from an entity exercising regulatory authority over Whitewater Express; or,
 - b. Any applicable government regulation; or,
 - c. Required under the terms of any permit or license agreement binding upon Whitewater Express.

- (4) Interference with Staff. Guests who interfere or attempt to interfere with any member of staff carrying out their duties.
- (5) Proof of Identity or Age. Any Guest who refuses upon request to produce positive identification acceptable to Whitewater Express.
- (6) Incompatible Medical Requirements. Whitewater Express will refuse participation to persons requiring medical equipment or services, which cannot be accommodated safely during the activity.
- (7) Comfort and Safety. Whitewater Express may refuse to allow participation, or remove a Guest from the activity at any point, in any of the circumstances listed below as may be necessary for the comfort or safety of such Guest or other Guests and crew members:
 - a. Persons whose conduct is or has been known to be disorderly, abusive, offensive, threatening, intimidating, violent, or whose clothing is lewd, obscene, or patently offensive; or,
 - b. Persons who are barefoot, unless required due to a disability; or,
 - c. Persons who appear to the Whitewater Express to be intoxicated or under the influence of drugs; or,
 - d. Persons who are known by the Whitewater Express to have a communicable disease or infection and whose condition poses a direct threat to the health or safety of others; or,
 - e. Persons who have an offensive odor, unless caused by a disability; or,
- (8) Weapons. Persons who wear or have on or about their person concealed or unconcealed deadly or dangerous weapons.
- (9) Non-Smoking Policy. Persons who are unwilling or unable to abide by Whitewater Express's non-smoking policy.
- (10) Misrepresentation. Persons who have made a misrepresentation which becomes evident upon check-in and the misrepresentation renders the person unacceptable for Participation.

Rule VII. Service Interruptions

A. Failure to Operate as Scheduled

- (1) Canceled Trips or Irregular Operations. In the event Whitewater Express cancels or fails to operate any trip according to Whitewater Express's published schedule, or changes the schedule of any trip, Whitewater Express will, at the request of a Guest with a confirmed Ticket on such trip, take one of the following actions:
 - a. Accommodate the Guest at no additional charge on Whitewater Express's next trip(s) on which space is available; or,
 - b. Refund the unused portion of the Guest's fare in accordance with Rule IV.C.
- (2) Trip Schedule Changes. Trip schedules are subject to change without notice, and the times shown on Whitewater Express's published schedules, Tickets, and advertising are not guaranteed. At times, without prior notice to Guests, Whitewater Express may need to substitute trip equipment or amend the specific itinerary. In the event of trip schedule changes or itinerary changes, Whitewater Express will attempt to notify affected Guests as early as possible.
- (3) Limitation of Liability. Except to the extent provided in this Rule, Whitewater Express shall not be liable for any failure or delay in operating any trip, with or without notice for reasons of safety or when advisable, in its sole discretion, or due to Force Majeure Events as defined in Rule I.B.

B. Denied Participation Procedures

- (1) In the event of an oversold trip, Whitewater Express shall request volunteers for denied participation before using any other participation priority. A "volunteer" is a person who responds to Whitewater Express's request for volunteers and who willingly accepts Whitewater Express's offer of compensation, in

any amount, in exchange for relinquishing his confirmed reserved space. Any other Guest denied participation is considered to have been denied participation involuntarily, even if that Guest accepts denied participation compensation.

- (2) Whitewater Express will advise each Guest solicited to volunteer for denied participation, no later than the time the Whitewater Express solicits that Guest to volunteer, whether he or she is in danger of being involuntarily denied participation and, if so, the compensation the Whitewater Express is obligated to pay if the Guest is involuntarily denied participation. If an insufficient number of volunteers come forward, Whitewater Express may deny participation to other Guests in accordance with Whitewater Express's participation priority rules as specified in this Rule.
- (3) Compensation will be provided in the form of a Participation Credit to be applied toward a future activity. The Guest may refuse Whitewater Express's offer of Participation Credit and insist on receiving compensation by draft or credit card adjustment in the amount actually tendered by Guest to Whitewater Express for the segment including any applicable use fees, booking fee, or associated charges.
- (4) Acceptance of compensation by the Guest relieves Whitewater Express from any further liability to the Guest caused by Whitewater Express's failure to honor the confirmed reservation.
- (5) Participation Priority Rules. Guests are assessed a participation priority score based on the actual amount they tendered to Whitewater Express for participation in the activity in descending order. Guests with the denied participation in order based on the lowest priority score.

Rule VIII. Miscellaneous

A. Claims for Injury

- (1) No claim for personal injury or death of a Guest will be entertained by Whitewater Express unless written notice of such claim is received by Whitewater Express within 21 days after the occurrence of the event giving rise to the claim.
- (2) No legal action on any claim described above may be maintained against Whitewater Express unless commenced within one year of the occurrence of thereof.

B. Severability and Waiver

- (1) Any part, provision, representation or warranty of this Contract which is prohibited or which is held to be void or unenforceable shall be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof.
- (2) The waiver by either party hereto of any right hereunder or the failure to perform or of a breach by the other party shall not be deemed a waiver of any other right hereunder or of any other breach or failure by said other party whether of a similar nature or otherwise.

C. Choice of Law, Entire Agreement

- (1) Any and all matters arising out of or relating to this Contract of Participation and/or the subject matter hereof shall be governed by, construed, and enforced in accordance with the laws of the United States of America and, to the extent not preempted by Federal law, the laws of the State of Georgia without regard to conflict of law principles, regardless of the legal theory upon which such matter is asserted. This Contract of Participation represents the entire, integrated agreement between the parties relating to participation in activities provided by Whitewater Express, and shall supersede all prior representations, understandings or agreements pertaining thereto, either oral or written. No other covenants, warranties, undertakings or understandings may be implied, in law or in equity.