

## Participant Agreement, Release, & Acknowledgement of Risk

**PLEASE READ THIS DOCUMENT CAREFULLY AND BE AWARE: BY SIGNING THIS AGREEMENT YOU ARE WAIVING SUBSTANTIAL LEGAL RIGHTS, INCLUDING THE RIGHT TO SUE.**

In consideration of the services of the vessel and of permitting me to be a guest, dive operators, and their agents, owners, directors, officers, volunteers, participants, employees, affiliates and all other persons or entities acting in any capacity on their behalf, I, \_\_\_\_\_ (*name*) hereby agree to release, indemnify, and discharge the vessel (M/V Thresher) and dive operators; Vincent Canabal (the individual), Debra Canabal (the individual), Epic Diving LLC, Epic Diving Limited on behalf of myself, my children, my parents, my heirs, assigns, personal representative, executors, next of kin and estate as follows:

- I acknowledge and agree that "adventure activities" such as diving, snorkeling, free diving and traveling on boats and cars entails known and unanticipated risks, which could result in physical or emotional injury, paralysis, death, or damage to myself, to property, or to third parties. I understand that such risks simply cannot be eliminated without jeopardizing the essential qualities of the activity. The risks include, among other things: falling, collision, upset, striking obstructions or other persons, speed of travel for conditions, head injuries, equipment failure, weather conditions including temperature exposure (hypothermia, sunstroke, sunburn, heat illness), dehydration, unforeseen attacks by sharks or any marine life. Furthermore, dive operators have difficult jobs to perform. They seek safety, but are not infallible. They might be unaware of a participant's fitness, abilities or mental health. They might misjudge the weather, the elements, or the animals you will be encountering on this expedition.
- I expressly agree and promise to accept and assume all of the risks existing in this activity. My participation in this activity is purely voluntary, and I elect to participate in spite of the risks.
- I hereby voluntarily release, forever discharge, and agree to indemnify and hold harmless the vessel and dive operators from any and all claims demands, or causes of action, which are in any way connected with my participation in this activity or my use of the vessel/dive operators' equipment, including any such claims which allege negligent acts or omissions of the dive operators.
- That being a GUEST or PASSENGER on a boat or vessel, a SNORKELER, SKIN DIVER and/or a SCUBA DIVER and/or engaging in swimming, snorkeling, skin diving and/or scuba diving activities, shark diving, cage diving, dive boat use, equipment use and/or other water sports (the "Activities"), are inherently potentially hazardous, risky and dangerous activities and involve the risk of property damage and/or serious injury and/or death.
- That the Activities are physically strenuous and I will be exerting myself. I am aware of the dangers of breath-holding while engaging in the Activities and will not hold Releasees responsible for any and all of such injuries as I may receive as a result of holding my breath. Even though I may follow all appropriate and safe practices associated with the Activities, there is still a risk of my sustaining decompression sickness, embolism, hyperbaric injuries and/or other injuries, and I expressly assume the risk of any or all of said injuries. On this open water diving trip and/or land tour, I will be at remote locations and there may be no immediate medical and/or hyperbaric care available to me, and I expressly assume the risk of engaging in the Activities in such remote locations.
- That any and all such injuries received may be compounded or increased by negligent rescue operations, or procedures, of the Releasees, or others, and I agree that this Waiver Agreement extends to all acts of negligence by Releasees including, but not limited to negligent rescue operations and is intended to be as broad and inclusive as permitted by the laws governing the Province or State or Country in which the Activities are conducted.
- Should the vessel/dive operators or anyone acting on their behalf, be required to incur attorney's fees and costs, I agree to indemnify and hold them harmless for all such fees and costs.
- I certify that I have adequate health insurance or equivalent to cover any injury or damage I may cause or suffer while participating in these activities or else I agree to bear the costs of such injury

or damage myself. I further certify that I have no mental, medical or physical conditions, which could interfere with my safety in this activity, or else I am willing to assume - and bear the costs of - all risks that may be created, directly or indirectly, by any such condition.

- Do to the remoteness of the location, I certify that I have dive insurance such as DAN or equivalent to cover any injury or damage I may cause or suffer while participating or else I agree to bear the costs of such injury or damage myself. I further certify that I understand due to the remoteness of the island, if an injury does occur I will be evacuated to the nearest facility and if I do not have dive insurance I will bear the costs of evacuation.
- I certify that I am a trained/certified diver and understand the risk involved. I also understand the risk associated with boating and all water sport activities.
- I understand and in compliance with a no touch policy of the sharks and marine life. I understand these are wild encounters and agree to have a respect for the sharks, never invading their personal space, grabbing, touching, riding, feeding etc. I understand that this is not a petting zoo and will remain at least 5 feet from the animal.
- I understand I have given up substantial rights by signing this document. I am aware of its legal consequences, and have signed it freely and voluntarily, without any inducement, assurance, or guarantee being made to me. I intend my signature to be a complete and unconditional release of all liability, to the greatest extent allowed by law.
- I agree that if any portion of this agreement is found to be void or unenforceable, the remaining portion shall remain in full force and effect.

#### **I understand and agree:**

#### **(WAIVER AND RELEASE)**

Freely and voluntarily, forever, to release, discharge, waive and relinquish, in favor of the Releasees, any and all claims, demands or causes of action, whether matured or unmatured, foreseen or unforeseen, arising from, or in connection with, any of the Activities including, without limitation, those for or relating to accident, personal injury, illness, theft, property damage and/or wrongful death occurring to me, arising out of, relating to, or as a result of my engaging in the Activities, wherever and however such injuries, damages or death may occur and for whatever period of time the Activities may continue, whether caused by negligence of Releasees or otherwise.

That, under no circumstances will I, or my estate, sue Releasees, and I agree that, under no circumstances, will I, or my heirs, executors, administrators and assigns prosecute or present any claim for personal injury, illness, theft, property damage or wrongful death against Releasees, as a result of the Releasees' negligence or otherwise.

#### **(ASSUMPTION OF RISK)**

Expressly to assume, without any limitation, full responsibility for any and all risks of bodily injury, condition, ailment, sickness, heart attack, panic attack, hyperventilation, allergic reaction, animal attack or bite, animal, plant or chemical envenomation, wrongful death or property damage, now and forever, arising out of, or related to, or as a result of my participation in the Activities, weather and climactic conditions, acts of God, acts of war or terrorism, small boat or vessel related activities (boarding tenders inwater), kayak related activities, raft or life-raft related activities, contamination of air, food and/or water, piracy, pirates and/or pirate attacks, coral rock injuries, bites, stings or attacks by any and all marine plant life and/or creatures, whether fish, mammal, crustacean, cetacean or otherwise, meteorological and/or climactic conditions including, but not limited to, swells, storms, tempests, typhoons, hurricanes, tornadoes, tsunamis, twisters and/or sub-surface volcanic activity, alcoholic beverage related injuries, controlled substance-related injuries, any and all other activities related to, arising from or involving the vessel, or any other related operations, whether foreseen or unforeseen, and whether caused by negligence of the Releasees, or otherwise.

I voluntarily accept any and all additional risks, and I am fully prepared to pay any and all expenses related to evacuation and recompression chamber treatment, should same be deemed necessary by myself and/or any of the Releasees, and should same be available.

#### **(INDEMNIFICATION)**

Expressly agree to indemnify, defend, save and hold harmless the Releasees from any loss, liability, damage or cost that they may incur, now and forever, arising out of, or related to, or as a result of, my participation in the Activities and/or any other related operations, whether caused by the negligence of Releasees, or otherwise.

That, if any provision of this document is found to be unenforceable or invalid, that provision shall be severed from this contract. The remainder of this Waiver Agreement shall then be construed as though the unenforceable provision had never been contained in this document and shall remain in full force and effect.

**(PRESERVATION OF NATURE CLAUSE)**

To leave all land, surface and sub-surface sites of the Activities undisturbed. I will not willfully damage, collect or remove any live animal, shellfish, fish, coral and/or items pertaining to shipwrecks, including fixtures, from their present marine environment or ecosystem. I shall bear full responsibility and financial liability for any violations of this provision.

That this Waiver Agreement shall be governed, interpreted, construed, enforced and determined according to the laws of Bahamas and the USA.

That, despite the foregoing prohibition against suing Releasees, if any lawsuits are filed against RELEASEES, such lawsuits shall be adjudicated only in the state of New Jersey USA, to the exclusion of any other courts or tribunals. In any such lawsuits, dismissals or judgments in favor of all, or any of, the Releasees, shall entitle the Releasees to recover reasonable attorneys' fees, costs and disbursements from the Plaintiff(s) who brought such lawsuits.

In consideration for permitting me, \_\_\_\_\_ (*name*), to participate in this shark diving activity on \_\_\_\_\_ (*dates*)

I hereby acknowledge:

\_\_\_\_\_ I am a certified scuba diver: \_\_\_\_\_ (*highest level of certification*)

*initials*

\_\_\_\_\_ I understand that diving while under the influence of alcohol or drugs is dangerous and I will not dive while under the influence of alcohol or drugs.

\_\_\_\_\_ I understand that this trip is physically demanding and I hereby attest that I am physically and mentally capable of walking, swimming, and getting in and out of the water, fully geared and unassisted.

\_\_\_\_\_ I understand the no touch policy of the sharks and marine life. I understand these are wild animals that have by no means been tamed. I will not attempt to touch, feed, or harass any sharks and understand that in doing so I may be removed from the water

\_\_\_\_\_ Scuba diving is a potentially dangerous activity and involves the risk of serious injury and/or death and/or property damage.

*initials*

\_\_\_\_\_ I understand that diving with sharks has additional, potentially dangerous hazards and involves the risk of serious injury and/or death and/or property damage. I willingly plan to participate in this activity, knowing and understanding these risks.

\_\_\_\_\_ I understand that due to the potential hazards, the vessel/dive operators reserve the right to remove me from the dive and/or boat without refund at the discretion of the divemasters, safety divers, captains, and their employees and agents.

\_\_\_\_\_ I understand that weather and water conditions are acts of god and out of control of the vessel/dive operators. At the discretion of the captain and staff of Epic Diving, we reserve the right to end/cancel the dive or dive day without a refund thus we strongly recommend trip insurance.

*initials*

\_\_\_\_\_ I hereby release, waive and agree not to sue the vessel/dive operators, divemasters, safety divers, captains, and their employees and agents, from all liability to myself, my personal representatives, assigns, heirs, and next of kin for any and all loss or damage, and any other claim or demands therefore on account of injury to my person or property or resulting in my

initials

death, now and forever, arising out of or related to participation in shark diving activities, whether caused by the negligence of the releases or otherwise.

\_\_\_\_\_ I hereby assume full responsibility for any risk of bodily injury, death, or property damage, now and forever, arising out of or related to participation in this shark diving activity whether foreseen or unforeseen and whether caused by negligence of the releases or otherwise, I hereby separately agree to indemnify and save and hold harmless the releases from any loss, liability, damage, or cost that they may incur, now and forever, arising out of or related to participation in this shark diving activity.

\_\_\_\_\_ I understand and in compliance with a no touch policy of the sharks and marine life. I understand these are wild encounters and agree to have a respect for the sharks, never invading their personal space, grabbing, touching, riding, feeding etc.

\_\_\_\_\_ I understand that I am responsible for my personal belongings and Epic Diving is not responsible for any thing lost, stolen or fallen over board.

initials

\_\_\_\_\_ By signing this document, I acknowledge that if anyone is hurt or property is damaged during my participation in this activity, I may be found by a court of law to have waived my right to maintain a lawsuit against the vessel/dive operators on the basis of any claim from which I have released them herein.

\_\_\_\_\_ By signing this document, I understand that there are no refunds for lost days of diving due to weather cancellations including natural disaster, travel delays, baggage delays, injury, or a host of other unforeseen circumstances. I will secure appropriate dive accident and dive travel insurance or assume the risk myself.

**SIGNATURE SECTION**

**I KNOW THAT THIS DOCUMENT IS A WAIVER AND RELEASE AGREEMENT. I KNOW I AM GIVING UP SUBSTANTIAL LEGAL RIGHTS.**

**PLEASE INITIAL THE FOLLOWING:**

**I HAVE READ AND UNDERSTAND THIS DOCUMENT FROM BEGINNING TO END?**

Answer: YES \_\_\_\_\_ NO \_\_\_\_\_

**WHAT IS THIS DOCUMENT WHICH YOU ARE SIGNING?**

Answer: \_\_\_\_\_

**DO YOU UNDERSTAND THAT SIGNING THIS DOCUMENT SERVES TO RELEASE AND WAIVE SUBSTANTIAL RIGHTS OR CLAIMS YOU MAY OTHERWISE HAVE HAD FOR DAMAGES AND FORBIDS YOU TO SUE?**

Answer: YES \_\_\_\_\_ NO \_\_\_\_\_

**THEREFORE, I AM SIGNING MY NAME IMMEDIATELY ABOVE THE WORDS "THIS IS A RELEASE AND WAIVER" SET FORTH BELOW, TO SHOW THAT I MEAN EVERYTHING THAT IS SAID, AND ALL THAT I HAVE SAID, IN THIS DOCUMENT.**

**SIGN HERE:**

**EMAIL:**

**PRINT NAME:**

**DATE:**