

**PARTICIPANT AGREEMENT, RELEASE AND ASSUMPTION OF RISK
(the "Agreement")**

**Talsma's Trail Park
40401 313th Street
Avon, South Dakota**

If over the age of 18:

Individual: _____
Address: _____ City: _____ State: _____
Home Phone: _____ Cell Phone: _____ Zip: _____
Email: _____

If under the age of 18:

Parent/Guardian's Name: _____
Child's Name: _____ Email: _____
Address: _____ City: _____ State: _____
Home Phone: _____ Cell Phone: _____ Zip: _____

Emergency Contact Name and Telephone Numbers:

Name: _____ Relationship _____
Home Phone: _____ Work Phone: _____ Cell Phone: _____

Please review the following Agreement and sign at the bottom. I have voluntarily elected to use, and if applicable, to allow the minor child(ren) identified above and all minor children under my supervision and referred to individually and collectively herein as "child" to use the Talsma's Trail Park facilities and equipment located at 40401 313th Street, Avon, South Dakota (the "Trail Park"). In consideration of being allowed to use the Trail Park and equipment, and any other services provided by Talsma's Trail Park ("TTP") or its employees or agents at the Trail Park, I represent, acknowledge and agree as follows:

I. General Release: I hereby acknowledge and agree that this Agreement covers and is intended to release and provide benefits, legal protections and consideration to TTP and its agents, owners, officers, affiliates, participants, employees, and all other persons or entities acting in any capacity on its behalf.

II. Release of Potential Injuries: I hereby acknowledge and agree that the use of all-terrain vehicles ("ATVs") and the other equipment at the Trail Park and that participating in the use of ATVs and other activities related thereto is inherently and obviously dangerous. The risks include serious physical or emotional injury, death, paralysis, damage to myself, child, and/or third parties, and damage to personal property of any or all such persons. I hereby acknowledge and agree that such risks simply cannot be eliminated without jeopardizing the essential qualities of riding ATVs, which I further agree is for recreational purposes and completely voluntary. I acknowledge and agree that while riding ATVs and other related activities that take place at the Trail Park are periodically monitored by Trail Park employees, it is not feasible for such employees to monitor the activities and actions of all customers at all times and all customers simultaneously. Furthermore, the employees may give incomplete warnings or instructions, and the equipment being used might malfunction.

III. Voluntary Assumption of Risks: I hereby further acknowledge and agree that I and the child are participating voluntarily and at our own risks. In addition, I acknowledge and agree that the actions or activities of other customers or the actions or inactions of the Trail Park employees could cause me or my child significant bodily injury and that TTP is not responsible for the actions or activities of customers using the Trail Park or the negligence of its employees in supervising the Trail Park or its usage, including actions, activities, or omissions that result in such harm. Some of the risks include, but are not limited to, the following:

1. Death, paralysis, partially or fully, through use of the Trail Park and participation in ATV riding activities.

2. Open wounds, bumps, bruises, the transmission of disease strains and allergic reactions through the use of the Trail Park or contact with other participants or surfaces they have contacted. Participants may sprain, pull, break or otherwise seriously externally or internally injure their head, face, neck, torso, spine, arms, wrists, hands, legs, ankles, feet or any other body parts as a result of falling off the ATV or other equipment, landing improperly on the ATV or other equipment or making contact with other participants. As noted in paragraph 1 above, such injury can lead to death, paralysis or disfigurement. Participation could further result in heat stroke, heart attack, dehydration or other exertion related medical events.

3. Observing, standing, walking, sitting or taking photographs at or near the Trail Park can result in similar physical injury even if the observer is not him or herself participating at the time.

IV. Agreement to pay my own medical expenses: I acknowledge, accept, and assume the risk of any and all medical conditions, limitations, or disabilities (whether temporary or permanent) that I or the child possess, whether known or unknown, which might contribute to or exacerbate an injury I or the child might sustain as the result of using the Trail Park or any of its equipment. I acknowledge and agree that if medical assistance of any form, including emergency care, hospitalization, out-patient care, and/or physical therapy, is required or performed as a result of any injury I or the child sustains while using the Trail Park, such assistance shall be at my own expense.

V. Release of Liability: The Releasing Parties (as defined below) hereby forever, irrevocably and unconditionally release, waive, relinquish, discharge from liability and covenant not to sue TTP, or their owners, successors, assigns and insurers (collectively "Releasees") from any and all claims, demands, rights, actions, suits, causes of actions, obligations, debts, costs, losses, charges, expenses, attorneys' fees, damages, judgments and liabilities, of whatever kind or nature, in law, equity or otherwise, whether known or unknown, suspected or unsuspected, and whether or not concealed or hidden, related to or arising directly or indirectly from my or my child's access to and/or use of the Trail Park, and/or its equipment, the child's and/or my entry into the Trail Park, the condition, maintenance, inspection, supervision, control or security of the Trail Park, the failure to warn of dangerous conditions in connection with the Trail Park, and/or the acts or omissions of TTP or any of the Releasees, including, without limitation, any claim for negligence, failure to warn or other omission, property damage, personal injury, emotional injury, illness, bodily harm, paralysis or death. I understand that this release and waiver applies not only to use of the ATVs and related equipment but also all activities at the Trail Park. I understand that this Release and Waiver applies to and includes all activities that I or my child engage in at the Trail Park. In the event that any claim released herein is brought by, or asserted on behalf, the Releasing Parties, I shall immediately defend, indemnify and hold harmless the Releasees, and any of them, from any loss or liability, including reasonable attorneys' fees, associated therewith or arising therefrom.

VI. Arbitration of Dispute; Time Limit to Bring Claim: I hereby acknowledge and agree that by agreeing to arbitrate any dispute as set forth in this Section, I am waiving my right, and the rights of my child, to maintain a lawsuit against TTP and the other Releasees for any and all claims covered by this Agreement. By agreeing to arbitrate, I understand that I will not have the right to have my claim determined by a jury, and the child above will not have the right to have the claims determined by a jury. Reciprocally, TTP and the other Releasees waive the right to maintain a lawsuit against me and my child for any and all claims covered by this Agreement, and they will not have the right to have their claims determined by a jury.

ANY DISPUTE, CLAIM OR CONTROVERSARY ARISING OUT OF OR RELATING TO MY OR MY CHILD'S ACCESS TO AND/OR USE OF THE TRAIL PARK AND OR ITS EQUIPMENT, INCLUDING THE DETERMINATION OF THE SCOPE OR APPLICABILITY OF THIS AGREEMENT TO ARBITRATE, SHALL BE BROUGHT WITHIN ONE (1) YEAR OF ITS ACCRUAL (I.E. THE DATE OF ALLEGED INJURY) AND BE DETERMINED BY ARBITRATION IN THE COUNTY OF BON HOMME, SOUTH DAKOTA, BEFORE ONE ARBITRATOR. JUDGMENT ON THE AWARD MAY BE ENTERED IN ANY COURT HAVING JURISDICTION. THIS CAUSE SHALL NOT PRECLUDE PARTIES FROM SEEKING PROVISIONAL REMEDIES OF ARBITRATION FROM A COURT OF APPROPRIATE JURISDICTION.

This Agreement shall be governed by, construed and interpreted in accordance with the laws of the State of South Dakota, without regard to choice of law principles. Notwithstanding the provision with respect to the applicable substantive law, any arbitration conducted pursuant to the terms of this Agreement shall be governed by the Federal Arbitration Act (9 U.S.C. §1 through 16).

VII. Term of Agreement I understand that this Agreement extends forever into the future and will have full force and effect each and every time I or my child visit the Trail Park.

VIII. Responsibility: I and each child agree to follow the following code of participant responsibility:

1. I acknowledge and agree there are inherent risks in the participation in or on the Trail Park, and that such risks include not only use of the ATVs, but other activities and equipment. Participants of the Trail Park who use the ATVs, and those who engage in any other activities or use of any other equipment, by participation, accept the risks inherent in such a participation of which the ordinary prudent person is or should be aware. Participants have a duty to exercise good judgment and act in a responsible manner while using the Trail Park and other equipment, and while engaging in such activities. Participants have a duty to obey all oral or written warnings, or both, prior to or during participating, or both.

2. I acknowledge and agree that I have a duty not to participate in any activity on the Trail Park, or engage in any other activity or use of any other equipment, when under the influence of drugs or alcohol.

3. I acknowledge and agree that I have a duty to properly use all safety equipment provided, whether for the ATVs at the Trail Park, or otherwise.

4. I acknowledge and agree that I have a duty not to participate in any activity at the Trail Park or engage in other activities or use of other equipment, if I have a pre-existing medical condition or if I may be pregnant.

5. I acknowledge and agree that I have a duty to remove inappropriate attire, accessories, or dangerous objects prior to entering the Trail Park.

6. I acknowledge and agree that I have a duty to avoid bodily contact with other participants.

7. I acknowledge and agree that I have a duty to conform to meet the height, weight or age restrictions imposed by the manufacturer or owner to use and participate in any ATV riding.

8. I acknowledge and agree that I have a duty to use the Trail Park and other equipment within my own limitations, training and acquired skills.

9. I acknowledge and agree that I have a duty to avoid landing on head or neck as serious injuries, paralysis or death can occur.

10. I agree to follow and obey all posted and stated warnings and participant education signs.

11. I agree to explain all safety rules to each child I accompany, and to ensure that each child obeys the safety rules.

12. I have had sufficient opportunity to read this document. I have read and understood and agree to be bound by its terms. I understand that the employees working at the Trail Park do not have the authority to waive any provision of this Agreement. This Agreement constitutes and contains the entire agreement between TTP and me relating to the child's and my use of the Trail Park. There are no other agreements, oral, written, or implied, with respect to such matters. I agree that if any portion of this Agreement is found to be unenforceable, the remaining provisions shall remain in full force.

13. By signing below, I represent and warrant that I am the parent, legal guardian, or power of attorney for the above-listed child and have the authority to execute this Agreement on his or her behalf and to act on his or her behalf. I have read each and every paragraph of this Agreement and I agree to be bound by the terms stated herein, including the release of liability contained herein. I further agree to indemnify and hold harmless the Releasees from any and all claims which are brought by or on behalf of the child, which is in any way connected with, arising out of, or result from such child's use of the Trail Park. I am eighteen (18) years of age or older. I am entering into this Agreement on behalf of myself, my spouse or domestic partner, the child, and our respective and/or collective issue, parents, siblings, heirs, assigns, personal representatives, estates, and anyone else who may claim by or through such person or persons ("the Releasing Parties").

IX. Expenses of Enforcement: In the event of any arbitration or legal action with respect to this Agreement, the prevailing party in any such action shall be entitled to reasonable attorneys' fees and all costs and expenses incurred in pursuant thereof.

BY MY SIGNATURE BELOW, I ACKNOWLEDGE AND AGREE THAT IF I OR ANY OF MY CHILDREN ARE INJURED IN ANY WAY, THIS WAIVER PREVENTS AND PROHIBITS ANY RECOVERY OF MONEY FROM TTP.

Date: _____ Signature: _____