

Highmark Rentals

PARTICIPANT AGREEMENT, RELEASE AND ASSUMPTION OF RISK

Inconsideration of the services of Highmark Rentals, their agents, owners, officers, volunteers, participants, and all other persons or entities acting in any capacity on their behalf. I hereby agree to release, indemnify, and discharge Highmark Rentals, on behalf of myself, my spouse, my children, my parents, my heirs, assigns, personal representative and estate as follows:

1. I acknowledge that my participation in off-road activities entails known and unanticipated risks that could result in physical or emotional injury, paralysis, death, or damage to me, to property or 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: riding on uneven terrain, changing conditions and variations in elevations; loss of control of the all-terrain vehicle utility terrain vehicle (UTV), falls from the UTV, collision with other vehicles, participants, trees, rocks and other manmade or natural obstacles; pinches, bruises, abrasions, strains, cuts and lacerations; exhaustion; steepness of slopes, instability of terrain or varying and difficult weather; exposure to temperature and weather extremes which could result in hypothermia, sunburn, or dehydration; encounters with animals and wildlife; burns; equipment failure and mechanical and/or equipment problems; accidents or illness can occur in remote places without medical facilities; improper lifting or carrying; my own physical condition and the physical exertion associated with this activity. Furthermore, Highmark Rentals employees have difficult jobs to perform. They seek safety, but they are not infallible. They might be unaware of a participant's fitness or abilities. They might misjudge the weather or other environmental conditions. They may give incomplete warnings or instructions, and the equipment being used might malfunction.
2. 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.
3. I hereby voluntarily release, forever discharge, and agree to indemnify and hold harmless Highmark Rentals 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 Highmark Rentals' equipment or facilities, including such claims which allege negligent acts or omissions of Highmark Rentals.
4. Should HMR or anyone acting on their behalf, be required to incur attorney's fees and costs to enforce this agreement, I agree to indemnify and hold them harmless for all such fees and costs.
5. I certify that I have adequate insurance 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 am willing to assume the risk of any medical or physical condition I may have.
6. In the event that I file a lawsuit against Highmark Rentals, I agree to do so solely in the state of Montana, and I further agree that the substantive laws of that state shall apply in that action without regard to the conflict of law rules of that state. I agree that if any portion of this agreement is found to be void or unenforceable, the remaining document shall remain in full force and effect.

23-2-822 Off-highway vehicle operator responsibilities.

(1) An off-highway vehicle operator shall accept all legal responsibility for injury or damage of any kind to the extent that the injury or damage results from risks inherent in the sport of off-highway vehicle use and shall regulate personal conduct at all times so that injury to self or other persons or property that results from the risks inherent in the sport of off-highway vehicle operation is avoided.

(2) Risks inherent in the sport of off-highway operation include variations in terrain, surface or subsurface conditions, crevices, ravines, streams, poor visibility, rocks, trees, other forms of forest growth or debris, and any other natural hazard.

(3) An off-highway vehicle operator is responsible for:

(a) knowing the range of the operator's ability to navigate any slope, trail, or area for off-highway vehicle use within the limits of the operator's ability, taking into consideration the conditions;

(b) maintaining control of speed and course at all times while operating the off-highway vehicle;

(c) heeding all posted warnings; and

(d) refraining from acting in a manner that may cause or contribute to the injury of anyone.

(4) The provisions of this section do not affect a products liability cause of action based upon the design or manufacture of off-highway equipment or products or safety equipment used incidental to the operation of an off-highway vehicle.

_____ (initial here) I have had sufficient opportunity to read the entire liability waiver. I have read and I understand it. I agree to be bound by its terms and conditions.

UTV DAMAGE WAIVER

_____ (initial here) I understand that I am being offered and accepting a damage waiver on the rented UTV only. **AND IF I DO NOT WANT THE UTV DAMAGE WAIVER I WILL HAVE THE OPPORTUNITY TO DECLINE THIS COVERAGE ON THE DAY OF MY RENTAL PICKUP.** I understand the cost is **\$25** per day, per UTV, and this caps my financial responsibility for damages at **\$3,000** for 2 seat UTVs per incident, per day per UTV on rental equipment only or **\$3,500** for 4-6 seat UTVs per incident, per day, per UTV on rental equipment only. I understand my credit card will NOT be charged unless damage occurs. The limits of this waiver cover only damage to Highmark Rentals UTVs. It does not cover any damage that may occur to any other vehicle, UTV, person or property, including myself. I understand there will be an additional charge for loss of rental income for the period the damaged equipment is not available to be rented while it's being repaired or replaced. This charge will be the daily rental fee for each day it is not available. I also understand if there is damage caused to the UTV while it is rented to me, I am not entitled to any of the damaged parts as they are property of Highmark Rentals. In the event of theft or water damage, the

damage waiver is NOT valid. I accept full responsibility for all costs associated with retrieval of the UTV and will pay the full replacement cost.

FLAT TIRE

_____ **(initial here)** I understand the UTV I have rented could potentially sustain a flat tire and additional damage in regard to the flat tire. If this happens and I need to call and ask for assistance from Highmark Rentals, there will be a recovery fee assessed in addition to the cost of the flat tire and the additional damage.

FUEL – 91 OCTANE

_____ **(initial here)** I understand that the UTV I have rented leaves full of 91 octane fuel and it will return full of 91 octane fuel at the time it is returned to Highmark Rentals.

LATE RETURN

_____ **(initial here)** I understand the rented UTV must be returned by 5:00 P.M. MST on the last day of the rental. I also understand that Highmark Rentals may notify the Gallatin County Sheriff's Office at 6:00 P.M. MST if I fail to return. There will be a minimum of a \$200 late fee charge per vehicle.

BIRDS OF PREY

_____ **(initial here)** I understand that in and around West Yellowstone or Island Park there are birds of prey that occasionally peck at the seats of the UTV. I accept full responsibility for the seat and the seat cover of the UTV I am renting and will pay for any and all damages made by birds of prey.

RECOVERY FEE

_____ **(initial here)** If I become stuck or unable to get the UTV going and I call and ask for assistance from Highmark Rentals, there will be a recovery fee assessed. I agree to pay a **MINIMUM** late fee/recovery fee charge of \$200.00 per incident.

**ASSUMPTION OF RISK AND WAIVER OF LIABILITY RELATING TO
CORONAVIRUS/COVID-19**

_____ (initial here) The novel coronavirus, COVID-19, has been declared a worldwide pandemic by the World Health Organization. **COVID-19 is contagious** and is believed to spread mainly from person-to-person contact.

By signing this agreement, I acknowledge the contagious nature of COVID-19 and voluntarily assume the risk. I understand that I may be exposed to or infected by COVID-19 and that such exposure or infection may result in personal injury, illness, permanent disability, or worse. I further understand that the risk of becoming exposed to or infected by COVID-19 may result from the actions (negligent or not) of myself and others.

Additionally, by signing this agreement, I voluntarily agree to assume all of the previously mentioned risks and accept sole responsibility for any injury to myself, illness, damage, loss, claim, liability, or expense, of any kind, that I may experience or incur in connection with the rental activity. I hereby release, pledge not to sue, and hold harmless Highmark Rentals of all claims, including all liabilities, actions, damages, costs or expenses of any kind arising out of or relating to exposure or contraction of COVID-19. I understand and agree that this release includes any claims based on the actions (negligent or not) of Highmark Rentals, its Trustees, its contractors, its volunteers, and its employees, regardless of whether a COVID-19 infection occurs before, during, or after participation in the rental activity.

By signing this document you may be waiving your legal right to a jury trial to hold the provider legally responsible for any injuries or damages resulting from risks inherent in the sport or recreational opportunity or for any injuries or damages you may suffer due to the provider's ordinary negligence that are the result of the provider's failure to exercise reasonable care.

_____ (initial here) I have had sufficient opportunity to read this entire document. I have read and understood it, and I agree to be bound by its terms.

Please Print

Name: _____

Address: _____

City, State, Zip: _____

Phone: _____