

## **ASSUMPTION OF RISK, RELEASE AND WAIVER OF LIABILITY AND INDEMNITY AGREEMENT FOR OPE EVENTS, LLC**

**THIS ASSUMPTION OF RISK, RELEASE AND WAIVER OF LIABILITY AND INDEMNITY AGREEMENT MUST BE SIGNED BY ALL PATRONS BEFORE ENTERING THE REAL PROPERTY AND IMPROVEMENTS OPERATED BY OPE EVENTS, LLC. ALL PATRONS UNDER THE AGE OF EIGHTEEN (18) MUST HAVE A PARENT OR LEGAL GUARDIAN SIGN THIS AGREEMENT ON BEHALF OF THE MINOR. PATRONS UNDER THE AGE OF EIGHTEEN (18) WHO DO NOT PROVIDE AN AGREEMENT WITH THE SIGNATURE OF THEIR PARENT OR LEGAL GUARDIAN WILL NOT BE ALLOWED INTO THE PARK.**

For purposes of this Agreement, "Patron" shall include the current patron listed (or Patron individually and on behalf of the Minor(s) of all of the individuals listed on this Agreement for whom Patron is the parent or legal guardian). For purposes of this Agreement, "Minor" shall include all the following people under the age of 18 for whom Patron is the legal guardian:

In consideration of the Patron and the Minor(s) being permitted to enter onto the real property and utilize the real property and improvements operated by OPE Events, LLC (the "Premises" or "Park") and allowed to participate in any and all activities on the Premises or an OPE sponsored event, including, but not limited to, using or operating all-terrain vehicles, motorcycles, and any and all other types of motorized vehicles for on-road and off-road use, motor-cross or racing, utilizing any and all tracks, trails, improvements, buildings, facilities, equipment or goods operated by OPE Events, LLC (hereinafter referred to as "OPE") for any reason, or to attend events sponsored by OPE (collectively, the "Activities"), the Patron, individually and on behalf of the Minor(s), and each of the Minors for himself/herself and for his/her heirs, estate, personal representatives, successors and assigns, agrees to the following terms and conditions:

1. Patron, individually and on behalf of the Minor(s) as parent or legal guardian, acknowledges and agrees to the following:
  - a. Patron is on the Premises voluntarily and of his/her/their own free will choosing to participate in or attend the Activities, and it is the Patron's choice to enter and bring the Minor(s) onto the Premises, and that the Activities may involve travel on motor vehicles at a high rate of speed and that such Activities are subject to mishap and even injury to or the death of participants and or spectators, including, but not limited to, broken bones, internal injuries, paralysis, or fatal injury, as well as the loss of or damage to personal property.
  - b. Patron and/or Minor(s) may be injured, damaged, or die as a result of the acts or omissions of themselves or of other persons.
  - c. Patron acknowledges there are certain inherent risks associated with off-road motor vehicle activities on the Premises, including but not limited to, physical injury due to out-of-control vehicles, collisions, potential contact with snakes, spiders and wild animals, and exposure to airborne or waterborne diseases. Water marked "non-potable" has not been treated in any manner whatsoever.
  - d. Patron acknowledges that OPE, or anyone acting on behalf of OPE, has not made any representation or warranty as to the condition of the Premises or the safety of engaging in the Activities. It is Patron's sole responsibility to keep himself/herself and the Minor(s) away from all unsafe or dangerous conditions on or about the Premises and to use due care engaging in the Activities, and Patron will remain solely responsible for himself/herself and the Minor(s) regarding any incident related to the Premises or the Activities.
2. Patron, individually and on behalf of the Minor(s) as parent or legal guardian acknowledges and agrees to the following:
  - a. Patron VOLUNTARILY ASSUMES THE FULL RISK of any injuries, illnesses, damages, or loss, regardless of the severity thereof, that Patron and the Minor(s) may sustain as the result of engaging in or attending any Activities at and on the Premises. The risk of injury includes, but is not limited to, minor injuries such as abrasions and bruises, and more serious injuries such as broken bones, muscle pulls and dislocations. The risk of injury also includes, but is not limited to, catastrophic injury such as permanent paralysis, brain damage, or even death. The risk of illness includes, but is not limited to, the exposure to waterborne illnesses, including E-coli, Cryptosporidiosis, and other infections. Patron, individually and on behalf of the Minor(s) as parent or legal guardian, understands that even with caution and reasonable hygiene, waterborne bacteria and parasites can infect participants in Activities at the Premises who touch water, are splashed, or who swallow and inhale even small amounts of water. Symptoms of waterborne illnesses include cramps, nausea, fever and severe diarrhea.
  - b. Patron acknowledges the contagious nature of the novel coronavirus, COVID-19 ("COVID-19"), and voluntarily assumes the risk that Patron and the Minor(s) may be exposed to or infected by COVID-19 by others present on the Premises or participating in or attending the Activities and that such exposure or infection may result in personal injury, illness, permanent disability, or death. Patron understands that the risk of becoming exposed to or infected by COVID-19 on the Premises or while participating in or attending the Activities may result from the actions, omissions, or negligence of Patron, the Minor(s), or others, including, but not limited to, OPE, or their respective agents, officers, members, employees, contractors, volunteers, or representatives, event participants, event attendees, or any member of their families or other persons with whom they have come into contact.

By signing this Agreement, Patron hereby agrees, represents, and warrants that neither Patron, the Minor(s), nor any member of his or her family (i) has within the past fourteen (14) days experienced any symptoms of COVID-19, including, without limitation, fever, cough, sore throat, runny nose, congestion, fatigue, nausea, vomiting, diarrhea, muscle aches, body aches, loss of taste or smell, headache, or shortness of breath; (ii) has a suspected or diagnosed/confirmed case of COVID-19; or (iii) has had contact with any individual in the past fourteen (14) days who has a suspected or diagnosed/confirmed case of COVID-19.

- c. Patron, individually and on behalf of the Minor(s) as parent or legal guardian, and all of their personal representatives, assigns, heirs, estate, and next of kin ("Releasors") waives any and all claims, and releases and agrees not to sue OPE, participants, racing associations, sanctioning or administrative organizations thereof, sponsors, advertisers, Premises and events inspectors, and others who give recommendations, directions, or instructions, or engage in risk evaluation or loss control activities regarding the Premises or the Activities, and each of their respective owners, officers, managers, members, employees, representatives, agents, affiliates, subsidiaries, successors, and assigns (collectively, the "Released Parties") with respect to any and all claims, liabilities, penalties, suits, expenses (including attorneys' fees and costs), medical expenses, emergency response expenses, or any losses of any kind, sickness, illness, death or impact due to any illness or virus, including but not limited to exposure to, infection from, or contracting of COVID-19, damage, death, or other loss in any way connected with Patron's or the Minor(s) presence on the Premises, participation in, or presence at, the Activities. Patron further HEREBY RELEASES, AND AGREES TO INDEMNIFY, HOLD HARMLESS, AND DEFEND the Released Parties from, against, and with respect to any and all claims, causes of action, damages, injuries, expenses (including court costs and attorneys' fees), medical expenses, emergency response expenses and losses of any kind (i) sought or brought by or on behalf of Patron, the Minor(s), their dependents, their spouses, or any of their other family members, or any of their estates, or heirs for, relating to, or arising from any injury, sickness, illness, death, or impact due to the contracting of any illness or virus, including COVID-19; and/or (ii) sought or brought by any other person, including without limitation, who has entered the premises or has participated in or attended any of the Activities, relating to, or arising from any injury, sickness, illness, death, or impact due to the contracting of any illness or virus, including COVID-19, caused or occasioned by Patron's, Minor's, or any of Patron's dependents' or family members' presence on the Premises or participation in or attendance at any of the Activities.
- d. Patron, with the full knowledge of the potential risks for injury, illness or disease, hereby GIVES CONSENT TO PARTICIPATE IN OR ATTEND SUCH ACTIVITIES for himself/herself and the Minor(s) and represents that Patron has full legal authority to provide such consent.
- e. Acknowledging that such risks exist, Patron, individually and on behalf of the Minor(s) as parent or legal guardian, and all of their personal representatives, assigns, heirs, estate, and next of kin (collectively, the "Releasors"), hereby forever AGREES TO INDEMNIFY, HOLD HARMLESS AND DEFEND, AND WAIVES, RELEASES, DISCHARGES AND COVENANTS NOT TO SUE the Released Parties, of and from any and all liabilities, strict liability, claims, damages, punitive damages, property damage, actions or causes of action, that the Releasors have or may have in the present or in the future for or relating to any injury or damage to the person or property of the Patron, of the Minor(s) or arising from the injury to or wrongful death of a third person, any of which were suffered or claimed to have been suffered as a result of or in relation to (i) the Activities, (ii) the condition of the Premises or (iii) the action or inaction of any of the Released Parties, including but not limited to any claim that an act or omission was caused in whole or in part by the negligence of one or more of the Released Parties or resulted from a hidden, latent or obvious defect(s) in the Premises or an OPE sponsored event.
- f. Patron, with full knowledge and acceptance of these facts and obligations, EXPRESSLY ASSUMES THE RISK of their participation in or attendance at the Activities and agrees that the Released Parties shall have no liability or legal duty to the Patron or the Minor(s) for the risks that Patron, individually and on behalf of the Minor(s) as parent or legal guardian, is voluntarily and expressly assuming.
- g. Patron further agrees to INDEMNIFY, HOLD HARMLESS, AND DEFEND the Released Parties in any claim, action or proceeding from and against all liabilities, strict liability, claims, damages, punitive damages, property damage, actions or causes of action, for or relating to Patron's and/or Minor(s)' participation in or attendance at any of the Activities at the Premises or an OPE sponsored event.
- h. Patron understands the safety concerns and is SOLELY RESPONSIBLE for Patron's and the Minor(s)' safety, as well as for Patron's and the Minor(s)' failure to comply with the terms of this Agreement, regardless of whether the act or omission was caused in whole or in part by the negligence of one or more of the Released Parties or by hidden, latent, or obvious defects at the Premises.
- i. Patron certifies, covenants and warrants that Patron and the Minor(s) have the skills and ability needed to carefully and competently participate in the Activities, which Patron and the Minor(s) will employ. Furthermore, Patron is not aware of any

physical condition or circumstance that would prevent himself/herself from engaging safely in motorized off-road vehicle activities, and he/she is in fact qualified and able to engage safely in motorized off-road vehicle activities. Patron will not allow Minor(s) to engage in any motorized off-road vehicle activity unless Patron has personal knowledge that the Minor(s) is qualified and able to engage safely in the motorized off-road vehicle activity.

- j. Patron has inspected the vehicle(s) that Patron and the Minor(s) brought to the Premises or to the Activities, and that Patron and Minor(s) have no knowledge of any condition that might render the vehicle(s) or Patron's or the Minor(s)' abilities to control the vehicle(s) in an unsafe manner in any way.
  - k. Patron certifies that Patron and the Minors have no health condition that will put Patron, the Minor(s), or others at risk while participating in the Activities.
  - l. Patron agrees that Patron and the Minor(s) will follow all rules set forth by OPE and Barnwell Mountain Recreation Area as they relate to the Premises or the Activities and further agrees to adhere to all safety standards applicable to the safe operation of any vehicle, off-road or otherwise, as set forth by the manufacturer of said vehicle. Patron agrees to abide by all local, state and federal laws regulating the possession, distribution and consumption of alcohol and "scheduled"/controlled substances including prescription medications and Patron acknowledges that Minor(s) are not permitted to drink alcohol on the premises. Patron agrees that Patron and the Minor(s) will not operate any all-terrain vehicle, motorcycle, or any and all other types of motorized vehicle while under the influence of alcohol or a "scheduled"/controlled substance.
  - m. Patron certifies that Patron and the Minor(s) have sufficient health, accident, and liability insurance to cover bodily injury or property damage Patron and/or Minor(s) may incur while on the Premises and to cover bodily injury or property damage caused to a third party as a result of their participation in or attendance at the activities described above. If Patron has no insurance for himself/herself and/or the Minor(s), Patron certifies that he/she is capable of personally paying for any and all such expenses or liability for himself/herself and the Minor(s).
  - n. Patron agrees that OPE may take and use photographs, video, film, and other images of Patron or the Minor(s) participating in or observing activities. Patron, individually and on behalf of the Minor(s) as parent or legal guardian, waives the right of privacy, publicity, compensation, copyright or other rights to those images and consents to OPE using those images of himself/herself and any Minor for any purpose.
3. **WAIVER AND RELEASE: In exchange for the use of the property and the opportunity to participate in or attend the Activities, as described above, I HEREBY VOLUNTARILY RELEASE, WAIVE, AND FOREVER GIVE UP ALL MY RIGHTS, CLAIMS AND CAUSES OF ACTION, WHETHER NOW EXISTING OR ARISING IN THE FUTURE, THAT I MAY HAVE AGAINST OPE, THEIR RESPECTIVE PARENT, SUBSIDIARY AND AFFILIATED COMPANIES AND ALL OF THEIR RESPECTIVE OFFICERS, DIRECTORS, MEMBERS, OWNERS, EMPLOYEES AND AGENTS THAT ARISE OUT OF OR ARE IN ANY WAY RELATED TO DISEASE, PROPERTY DAMAGE AND/OR BODILY INJURIES (INCLUDING A SUBSEQUENT OR RESULTING DEATH), HEREINAFTER REFERRED TO AS THE "CLAIMS," SUSTAINED IN THE COURSE AND SCOPE OF MY PARTICIPATION IN OR ATTENDANCE AT ACTIVITIES ON THE PROPERTY OF OPE SPONSORED EVENTS, WHETHER OR NOT SAID CLAIMS ARISE IN WHOLE OR IN PART FROM THE NEGLIGENCE OF OPE. I EXPRESSLY UNDERSTAND THAT INCLUDED IN THE CLAIMS THAT I AM RELEASING, WAIVING AND GIVING UP ARE CLAIMS BASED ON NEGLIGENT OR GROSSLY NEGLIGENT ACTS OR OMISSIONS.**
4. The laws of the State of TEXAS shall govern this Agreement. Any provision, clause or term of this Agreement that is invalid, illegal or unenforceable in any respect shall be severed and be made ineffective to the extent of such invalidity, illegality or unenforceability without in any way affecting the validity, legality or enforceability of the remaining provisions and terms of the Agreement. Any lawsuit shall solely be brought in Pulaski County, Arkansas. Should OPE 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.

#### **PROTECTIVE RIDING HEADGEAR REFUSAL**

I, the undersigned, have been fully warned and advised by OPE Events, LLC (hereinafter collectively referred to as "OPE"), that I should wear a properly fitted and secured DOT and/or or SNELL certified helmet while riding or being around all-terrain vehicles ("ATV's") or off-highway vehicles ("OHV's") (whether on the premises or off of the OPE premises or at an OPE sponsored event) in order to potentially reduce the severity of an injury and/or to possibly prevent my death from occurring as the result of a fall or any other occurrence associated with this activity. I understand that by not wearing a helmet, I will be going against manufacturers' requirements and putting myself at an increased risk for injuries, and against the advice of OPE and numerous court cases I am refusing this critical safety precaution. I also understand that minors are not allowed to refuse protective headgear, and I cannot sign on their behalf to waive the requirement.

**I, the undersigned, have read the foregoing statement carefully before signing and do understand its warning.**

I am the true and correct legal guardian of the Minor(s) listed below and have read and fully understand this Assumption of Risk, Release and Waiver of Liability and Indemnity Agreement and agree personally and on behalf of the Minor(s) to be bound by its terms. Further, in consideration of the Minor(s) being permitted by OPE to participate in its activities and to use its equipment and facilities, I further agree to indemnify and hold harmless OPE from any and all claims which are brought by, or on behalf of Minor(s), and which are in any way connected with such use or participation by Minor(s).

I agree that this document is valid for subsequent visits and participation at OPE. 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.

**I UNDERSTAND THAT BY SIGNING THIS AGREEMENT I AM WAIVING SIGNIFICANT LEGAL RIGHTS, INCLUDING THE RIGHT TO ASSERT CLAIMS AGAINST, SUE OR RECOVER FROM OPE AND THE RELEASED PARTIES BOTH PERSONALLY AND ON BEHALF OF THE MINOR(S).**

**I sign this Agreement freely and willingly and agree to all of the above.**

**This Agreement may be signed electronically.**

Print Patron Name: \_\_\_\_\_

Patron Signature: \_\_\_\_\_

Print Minor Name: \_\_\_\_\_ DOB: \_\_\_\_\_

Parent/Legal Gardian Signature: \_\_\_\_\_

Emergency Contact Name/#: \_\_\_\_\_

Below to be completed by a Notary Public per Minor Policy (below):

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STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

This record was acknowledged before me on this \_\_\_\_\_, day of \_\_\_\_\_, 20\_\_\_\_, by

\_\_\_\_\_ (name of person acknowledged).

\_\_\_\_\_  
NOTARY PUBLIC

### **Minors Policy**

Minors (those under the age of 18) are not allowed on any TMTC/BMRA premises or OPE sponsored event without adult supervision. The minor's legal parent/guardian must sign the waivers on-site for a minor to attend, watch, ride, or participate.

If a child is attending, watching, riding or participating with a responsible adult other than their legal parent/guardian, they must have on file (1) a copy of the TMTC waiver signed by their legal parent/guardian (if not signed on premises it must be notarized), (2) a copy of the OPE waiver signed by their legal parent/guardian (if not signed on premises it must be notarized), and (3) a Notarized Letter stating that the minor has the right to be on the premises and participate in motorized recreation with the adult who is responsible for them.