

Brushy Creek Lodge & Resort INC.
Owners: George & JoAnn Becker
420 County Road 831 Black, MO. 62635

SIDE BY SIDE UTV, RELEASE OF LIABILITY & INDEMNIFICATION AGREEMENT

PLEASE READ CAREFULLY BEFORE SIGNING. **THIS IS A RELEASE OF LIABILITY & WAIVER OF LEGAL RIGHTS.**

1. **Definitions.** In consideration of the risk of injury while participating in UTV riding, riding my horses, stalling my horse or horses, camping or renting cabins, or at restaurant on site (the "Activity"), and as consideration for the right to participate in the Activity, I hereby, or myself, my heirs, executors, administrators, assigns, or personal representatives, knowingly and voluntarily enter into this waiver and release of liability and hereby waive any and all rights, claims or causes of action of any kind whatsoever arising out of my participation in the Activity, and do hereby release and forever discharge **Brushy Creek Lodge & Resort Inc., George Becker & JoAnn Becker, located at 420 County Rd. 831, Black, Missouri 63625**, their affiliates, managers, members, agents, attorneys, staff, volunteers, heirs, representatives, predecessors, successors and assigns, for any physical or psychological injury, including but not limited to illness, paralysis, death, damages, economical or emotional loss, that I may suffer as a direct result of my participation in the aforementioned Activity, including traveling to and from an event related to this Activity.
2. **Risks of Activity.** The Undersigned agree and understand that taking part in the Activity can be HAZARDOUS AND INVOLVES THE RISK OF PHYSICAL INJURY AND/OR DEATH. The Undersigned acknowledge that the Activity is inherently dangerous and fully realizes the dangers of participating in the Activity. The risks and dangers of the activity include, but are not limited to, equipment malfunctions and defects; failure of child seats; collisions; speed; terrain; man-made and natural obstacles and obstructions; ejection; rollovers; impacts; flora and fauna; falling objects; encounters with other Side-By-Side UTVs and vehicles; improper use of or lack of equipment; becoming lost or separated; lack of shelter; storms, lightning, hail, snow and other adverse weather; avalanches; lack of training; and negligence of others including employees and agents of the Released Parties and other participants. THE UNDERSIGNED ACKNOWLEDGE AND UNDERSTAND THE DESCRIPTION OF THE RISKS LISTED ABOVE IS NOT COMPLETE AND THAT PARTICIPATING IN THE ACTIVITY MAY BE DANGEROUS AND MAY INCLUDE OTHER RISKS.
3. **Release, Indemnification, and Assumption of Risk.** In consideration of the Participant being permitted to participate in the Activity, the Undersigned agree as follows:

(a) Release. THE UNDERSIGNED HEREBY IRREVOCABLY AND UNCONDITIONALLY RELEASE, FOREVER DISCHARGE, AND AGREE NOT TO SUE OR BRING ANY OTHER LEGAL ACTION AGAINST THE RELEASED PARTIES with respect to any and all claims and causes of action of any nature, including, but not limited to, the "Risks of Activity" described above, whether currently known or unknown, which the Undersigned, or any of them, have or which could be asserted on behalf of the Undersigned in connection with the Participant's participation in the Activity, including, but not limited to, claims of negligence, negligence *per se*, misrepresentation, premises liability, products liability, tort claims, statutory claims/violations, breach of warranty, and breach of contract.

(b) Indemnification. The Undersigned hereby agree to indemnify, defend and hold harmless the Released Parties from and against any and all liability, cost, expense or damage of any kind or nature whatsoever, including, but not limited to, property loss, personal injury, medical bills, pain and suffering, loss of income, impairment and disfigurement, and from any suits, claims or demands, including legal fees, attorneys' fees and expenses whether or not in litigation, arising out of, or related to, Participant's participation in the Activity. Such obligation on the part of the Undersigned shall survive beyond the period of the Participant's participation in the Activity.

(c) Assumption of Risk. The Undersigned agree and understand there are dangers and risks associated with the participation in the Activity and that INJURIES OR DEATH may result from participating in the Activity, including, but not limited to the acts, omissions, representations, carelessness, and negligence of the Released

Parties. By signing this document, the Undersigned recognize that property loss, injury and death are all possible while participating in the Activity, participation in which is voluntary. Undersigned certifies that he/she and any minor participant is fit to participate in the Activity and is not under the influence of any alcohol or recreational drugs, or under the influence of any medication which would render him/her unable to participate in the Activity.

(d) RECOGNIZING THE RISKS AND DANGERS, THE UNDERSIGNED UNDERSTAND THE NATURE OF THE ACTIVITY AND VOLUNTARILY CHOOSE FOR PARTICIPANT TO PARTICIPATE IN AND EXPRESSLY ASSUME ALL RISKS AND DANGERS OF THE PARTICIPATION IN THE ACTIVITY, WHETHER OR NOT DESCRIBED ABOVE, KNOWN OR UNKNOWN, INHERENT, OR OTHERWISE.

4. **Side-By-Side ATV Use and Damage.** The Side-By-Side UTV is owned by participant participating in UTV riding. The Undersigned accept full responsibility for the care of their personal Side-By-Side UTV during the period of their stay. Undersigned agree that Brushy Creek Lodge is not responsible for any damage that occurs to the participants personal Side-By-Side UTV regardless of the circumstances under which such damage may occur.
5. **Minor Acknowledgment.** In the case of a minor Participant (under 18 years), the Undersigned parent or legal guardian acknowledges that he/she is not only signing this Agreement on his/her behalf, but that he/she is also signing on behalf of the minor and that the minor shall be bound by all the terms of this Agreement. Additionally, by signing this Agreement as the parent or legal guardian of a minor, the parent or legal guardian understands that he/she is also waiving rights on behalf of the minor that the minor otherwise may have. The Undersigned parent or legal guardian agrees that, but for the foregoing, the minor would not be permitted to participate in the Activity. By signing this Agreement without a parent or legal guardian's signature, Participant, under penalty of fraud, represents that he/she is at least 18 years of age. If signing as the parent or guardian of a minor Participant, signing adults represent, under penalty of fraud, that they are a legal parent or guardian of the minor Participant.
6. **Miscellaneous.** The Undersigned further agree and understand: (a) Participant will not engage in any activities prohibited by any applicable laws, statutes, regulations and ordinances; (b) this Agreement shall be governed by the laws of the State of Missouri, and the exclusive jurisdiction and venue for any claim arising out of this Agreement shall be the state courts located in Reynolds County, Missouri, and Undersigned expressly agree and consent to jurisdiction in said courts; (c) THIS AGREEMENT CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE PARTIES HERETO AND SUPERSEDES ANY AND ALL PRIOR CONTRACTS, ARRANGEMENTS, COMMUNICATIONS, OR REPRESENTATIONS, WHETHER ORAL OR WRITTEN, BETWEEN THE PARTIES RELATING TO THE SUBJECT MATTER HEREOF INCLUDING BUT NOT LIMITED TO ANY PRIOR OR FUTURE REPRESENTATIONS ABOUT THE ACTIVITY ITSELF OR THE SAFETY THEREOF; (d) the Undersigned understand and acknowledge that this Agreement is a contract and shall be binding to the fullest extent permitted by law. If any part of this Agreement is deemed to be unenforceable, the remaining terms shall be an enforceable contract between the parties. It is the intent of the Undersigned that this agreement shall be binding upon the assignees, subrogees, distributors, heirs, next of kin, executors and personal representatives of the Undersigned.

This Agreement was entered into at arm's-length, without duress or coercion, and is to be interpreted as an agreement between two parties of equal bargaining strength. Both the Participant, _____, and **Brushy Creek Lodge & Resort Inc., George Becker & JoAnn Becker** agree that this Agreement is clear and unambiguous as to its terms, and that no other evidence will be used or admitted to alter or explain the terms of this Agreement, but that it will be interpreted based on the language in accordance with the purposes for which it is entered into.

Age Certification. The Undersigned certify under the penalty of fraud; Participant is the following (initial):

- Age 18 or older and possesses a valid driver's license. ____ Initial
- Date of Birth of Participant: _____

Photography. In consideration of participating in this event, I do hereby give the Brushy Creek Lodge & Resort Inc., Brushy Creek Outdoor Adventures, and employees of this company, his or her assigns, licensees, successors in interest, legal representatives, and heirs the irrevocable right to use my picture, portrait or photograph in all forms of media, in all manners for advertising, trade, sale or any other lawful purposes and I waive any right to inspect or approve the finished version(s), including written copy that may be created and appear in connection there with. I have read this release and am fully familiar with its contents.

**I HAVE CAREFULLY READ THE ASSUMPTION OF RISK, RELEASE OF LIABILITY
& INDEMNIFICATION AGREEMENT AND UNDERSTAND IT. I AM AWARE I AM
RELEASING LEGAL RIGHTS THAT OTHERWISE MAY EXIST.**

Printed Name of Participant

Signature of Participant

DATE:

Printed Name of Parent/Legal Guardian

Signature of Parent/Legal Guardian

DATE:

Address- (Street, City, State, Zip Code)

Telephone:

Email Address:

Emergency Contact:

Telephone:

Relation: