

## Voluntary Waiver, Consent, Release, and Hold Harmless Agreement

PLEASE READ THIS AGREEMENT CAREFULLY.

DO NOT SIGN THIS AGREEMENT UNLESS YOU AGREE TO THESE TERMS.

RIDING IS VOLUNTARY; YOU ARE NOT REQUIRED TO PARTICIPATE.

In consideration for being allowed to rent, drive, ride in and/or utilize an off-road vehicle or snowmobile ("vehicle") pursuant to the accompany Rental Agreement ("Rental Opportunity"), I agree to assume all risks, waive all claims, release all liability, and defend and hold Adventure PowerSports, LLC. ("Outfitter") Yamaha Motorsports ("Yamaha") and/or Polaris Industries Inc. ("Polaris"), their directors, officers, agents, affiliates, subsidiaries and parent companies, harmless to the fullest extent allowed by law.

### 1. I ACKNOWLEDGE AND AGREE THAT:

- a. If I will be a driver of the vehicle, I have a valid driver's license, I am 18 years of age or older, and I can legally operate a vehicle as a part of the Rental Opportunity;
- b. If I will be a driver of the vehicle, I will only carry minor passengers if I am at least 25 years of age and the Parent or Legal Guardian of the minor passenger. I will only carry the number of passengers for which the vehicle was designed. I will only carry passengers who have signed this Agreement and the accompanying Rental Opportunity Agreement. I will require every passenger to wear proper safety equipment and a seatbelt.
- c. As a passenger, I am able to grasp the handhold with my feet firmly planted on the ground and my back fully against the seat backrest.
- d. If I am under 18 years of age ("minor passenger"), my Parent or Legal Guardian is also signing on my behalf and I will be under my Parent or Legal Guardian's supervision at all times and I will not drive the rented vehicle during the Rental Opportunity.
- e. I am aware of and voluntarily assume the **DANGERS AND RISKS OF SERIOUS INJURY, DAMAGE, OR DEATH** that exist in my use of the vehicles and equipment which could be or may be caused by loss of vehicle control, collisions, mechanical failures, trail conditions, my own negligent acts, the negligent acts of other riders, and the potential negligence of the Outfitter and Polaris, including the failure to adequately screen, train, warn, or otherwise protect me from all these risks.
- f. My Participation in such activities and/or use of the vehicles and equipment may result in injury or illness including, but not limited to, **BODILY INJURY, DISEASE, STRAINS, FRACTURES, PARTIAL OR TOTAL PARALYSIS, OTHER AILMENTS THAT COULD CAUSE SERIOUS DISABILITY, AND/OR DEATH.**
- g. I have reviewed, am familiar with, and will comply with the **SAFETY INSTRUCTIONS** provided by the Outfitter, **ALL INSTRUCTIONS AND WARNINGS CONTAINED IN THE OWNER'S MANUAL, AND THE WARNINGS ON THE VEHICLES**, including the use of a helmet, goggles, seat belt, and other personal protective equipment.
- h. I have received appropriate and thorough safety instructions and a vehicle review including its handling, safety features, risk, hazards, instructions and warnings. I am comfortable and confident in my ability and knowledge to handle the rented vehicle in accordance with such safety instructions and warnings on the vehicles and in accordance with the safety trainings provided and if I have any questions, I will ask before riding.
- i. I may only operate the vehicle within 150 miles of our facility and may not drive or otherwise transport the vehicle in any way to any unauthorized location. I am aware that if I am caught transporting the vehicle, I will assume full responsibility for the violation and will be subject to any and all recourse by law enforcement. I will not operate the vehicle in violation of any law or ordinance, or contrary to the provisions of any applicable insurance policy.

- j. I have not and will not consume drugs, alcohol or any other substance that could impair my judgment, riding, or driving ability.
2. **I AGREE TO WAIVE TO THE FULLEST EXTENT ALLOWED BY LAW ANY AND ALL CLAIMS OF ANY KIND** that I have or may have in the future relating to the Rental Opportunity, whether directly or by subrogation or otherwise, against the Outfitter, Yamaha, Polaris, any Yamaha or Polaris dealership, industry association, and/or any of their directors, officers, subsidiaries, affiliates, employees, agents, successors or assigns, (collectively, "Rental Opportunity Sponsors").
  3. **I AGREE TO RELEASE THE RENTAL OPPORTUNITY SPONSOR FROM ANY AND ALL LIABILITY** for any loss, damage, expense or injury (including death) that I or my next of kin may incur resulting from my participation in the Rental Opportunity. I understand that this waiver and release does not extend to intentionally wrongful acts on the part of the Rental Opportunity Sponsors.
  4. **I EXPRESSLY WAIVE ANY BENEFITS I MAY HAVE UNDER SECTION 1542 OF THE CALIFORNIA CODE**, or any other law, that provides that a general release does not extend to claims which I do not know of or suspect exist, which if known by me may have materially affected my decision to sign this agreement.
  5. **I AGREE TO DEFEND, HOLD HARMLESS, AND INDEMNIFY THE RENTAL OPPORTUNITY SPONSORS** from and against any and all liability for any claim or loss, including personal injury, death, property loss, attorney fees, and litigation costs resulting from my participation in the Rental Opportunity.
  6. **I AGREE AND UNDERSTAND** that, on behalf of myself, my personal representatives and my heirs, **I AM RELINQUISHING ANY AND ALL RIGHTS I NOW HAVE OR MAY HAVE IN THE FUTURE TO SUE** the Rental Opportunity Outfitter, or Sponsors for any and all injury, damage, or death I may suffer arising from the vehicle or its equipment, or participation in the Rental Opportunity, including claims on the Rental Opportunity Sponsor's negligence.
  7. **I HEREBY GRANT** to the Rental Opportunity Sponsors, and those acting with their authority, the unrestricted, perpetual, worldwide right and **LICENSE TO USE MY NAME, PHOTOGRAPH, LIKENESS, VOICE AND BIOGRAPHICAL INFORMATION**, and any photograph, video or audio tape that may be taken of me or that includes such materials without further compensation or notice to or permission from me or any third party.
  8. **THIS AGREEMENT SHALL BE GOVERNED BY** New York State **LAW**, without regard to its choice of law rules. Any dispute or claim relating to this Agreement or the Rental Opportunity shall be finally resolved by binding arbitration under the United States Arbitration Act in the state of **New York State** .

**I HAVE READ THIS AGREEMENT CAREFULLY PRIOR TO SIGNING IT.**

**I UNDERSTAND THAT I AM WAIVING CERTAIN LEGAL RIGHTS BY SIGNING THIS AGREEMENT.**

Print Name: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Street Address: \_\_\_\_\_ City/State/Zip: \_\_\_\_\_

Phone #: \_\_\_\_\_ E-Mail: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**DRIVER ONLY**

Driver's License State: \_\_\_\_\_ Driver's License Number: \_\_\_\_\_

**MINOR PASSENGER ONLY**

Parent or Legal Guardian Name: \_\_\_\_\_ Date: \_\_\_\_\_

Parent or Legal Guardian Signature: \_\_\_\_\_

## Rental Agreement

The undersigned hereby rents from Adventure PowerSports, LLC. (“Outfitter”) the off-road vehicle or snowmobile (“vehicle”) and/or related equipment for a limited period of time, upon the following terms and conditions.

### **NO WARRANTY – INHERENTLY DANGEROUS ACTIVITY – NO INSURANCE PROVIDED**

Outfitter makes no warranty of any kind, nature or description, express or implied, as to the quality and manufacture, safety, drivability, or fitness for any particular purpose of any vehicle or equipment covered by this agreement. I, the undersigned, accept any vehicle or other equipment provided by Outfitter in its “as is” condition with all faults. I hereby acknowledge that the vehicle is a dangerous activity, with a high risk of serious bodily injury or death to oneself or others. Outfitter does not provide medical insurance and advises that serious injuries can be financially devastating. I personally accept all risks and liabilities of this activity. It has been explained to me and I understand that by executing this document I am giving up important legal rights. It is my further intention to give up those rights and in good faith to relieve and release Outfitter of any duty legally owed to me in relation to the conduct of this activity.

### **TERMS AND CONDITIONS – READ THIS CAREFULLY**

#### **RENTER IS RESPONSIBLE FOR ALL COSTS ASSOCIATED WITH VEHICLE DAMAGE**

This is a contract for the rental of the vehicle and equipment. We may repossess the vehicle at your expense without notice to you if the vehicle is abandoned or used in violation of law or this Agreement.

#### **1. DRIVE RULES:**

- a. Driver of the vehicle must be at least 18 years of age and possess a valid driver’s license.
- b. Driver will wear Safety Gear and seatbelt when operating or riding in the vehicle.
- c. Driver will not and has not consumed alcohol, drugs, or ingested any substances that could adversely affect their ability to safely and successfully operate the vehicle.
- d. Driver will operate the vehicle only in areas legal by state and local law, designated trails and areas within 150 miles of our facility, and will NOT trespass on any property on which the driver is not authorized to operate the vehicle. Renters caught trespassing will assume full responsibility for the violation and will be subject to any and all recourse by law enforcement. Renters may not transport the vehicle in way to any other location.
- e. Driver will only carry passengers under the age of 18 (“minor passengers”) if Driver is at least 25 years of age and the Parent or Legal Guardian of the minor passenger. Driver will only carry the number of passengers for which the vehicle was designed. Driver will only carry passengers who have signed this Agreement and the accompanying Waiver. Driver will require each passenger to wear proper safety equipment and a seatbelt at all times.
- f. Driver will not carry any passengers who have consumed alcohol, drugs, or ingested any substances that could adversely affect their ability to safely and successfully ride in or on the vehicle.
- g. Driver must follow all rules of the road. Infractions will be the responsibility of the driver, including but not limited to moving violations, parking tickets, etc.
- h. Driver may NOT use or permit the vehicle to be used: 1) by anyone other than an authorized driver; 2) to carry passengers or property for hire; 3) to tow or push anything; 4) to be operated in a test, race or contest; 5) while the driver is under the influence of alcohol or a controlled substance; 6) for conduct that could be charged as a crime such as a felony or misdemeanor, including the transportation of a controlled substance or contraband; 7) recklessly; or 8) while overloaded.

- i. Driver may NOT drive or operate the vehicle while using a hand-held wireless communication device or other device that is capable of receiving or transmitting telephonic communications, electronic data, mail or text messages.

**2. PASSENGER RULES:**

- a. Passenger must be able to grasp handholds and firmly plant his or her feet on the foot rests with their back fully against the seat back rest. Minor passengers must be accompanied by a Parent or Legal Guardian over the age of 25.
- b. Passenger will wear Safety Gear and seatbelt when riding in the vehicle.
- c. Passenger will not consume alcohol, drugs, or ingest any substances that could adversely affect their ability to safely and successfully ride in the vehicle.

**3. SAFETY GEAR STATEMENT AND RELEASE FORM.** *I understand and agree that:*

- a. I will wear a CERTIFIED (DOT, SNELL, or ECE) helmet and eye protection (Safety Gear) at all times while driving or riding in a vehicle.
- b. If the vehicle is equipped, I will at all times wear a seatbelt in addition to helmet and goggles when driving or riding in a vehicle.
- c. Outfitter has stressed the requirement to wear Safety Gear.
- d. I have watched the safety video and have been thoroughly briefed on how to successfully and safely operate the vehicle.
- e. Although wearing Safety Gear reduces my risk of injury, it does not in any way guarantee my safety.
- f. I will bring Safety Gear loaned or rented to me by Outfitter back in the SAME condition it was in upon check-out. Any damages or losses to equipment will be charged or billed to me and/or deducted from the security deposit.

**4. LIMITATIONS OF USE AND RESPONSIBILITY FOR LOSS OR DAMAGE.**

- a. I agree that only the persons identified in this Agreement as a driver will operate the rented vehicle. I agree that passengers will not be carried except to the extent that the vehicle is designed for such use. No persons under the age of 18 will be permitted to drive under any circumstances.
- b. Should any person operate the vehicle or equipment in such a manner that results in theft, loss or damage to the vehicle or equipment, **I AGREE TO BE PERSONALLY LIABLE AND FINANCIALLY RESPONSIBLE FOR ALL SUCH LOSS AND/OR DAMAGE.**
- c. I agree to pay for the loss of use of any vehicle at the full day rental rate for each day from the date of damage until the vehicle is repaired and replaced in rental service, not to exceed 14 days.
- d. I hereby authorize Outfitter to charge my credit card account provided as a part of this transaction for any and all additional rental, damage, and loss of use charges that I may incur under the terms of this agreement. **ALL RENTALS ARE SUBJECT TO A DAMAGE DEPOSIT IN THE FORM OF A CREDIT CARD PRE-AUTHORIZATION TO BE DETERMINED BY OUTFITTER.**

**5. DAMAGES – CHECK IN AND CHECK OUT.** *I understand and agree that:*

- a. I will check-in (return) the vehicle in the EXACT same condition it was upon check-out (pickup). NOTE: acceptable tire tread-wear is expected, however, excessive wear or damage will be charged. Drive belt breakage is considered damage.
- b. **ANY AND ALL DAMAGE AND/OR LOSS SUSTAINED TO THE VEHICLE DURING THE RENTAL PERIOD IS MY RESPONSIBILITY AND IS TO BE PAID FOR BY ME, THE RENTER.**
- c. If the vehicle is too dirty to assess full condition of machine upon check-in, the machine will be fully inspected again after it has been thoroughly cleaned by Outfitter. If damages are found after this is performed, these charges will be applied and paid in full by the renter.
- d. Damages, penalties, and other additional charges will be taken from my security deposit first. A receipt of all additional charges will be available to me upon request.

- e. I will pay for damages, losses, lost rental revenue and penalties beyond my security deposit within 15 days of receiving a bill for the damages. I will pay using secured funds (certified check or money order) or with a credit or debit card. I will be billed or charged by Outfitter as soon as possible. Outfitter will hold my security deposit no longer than 15 days after check-out date if there are no damages. If there are damages, the deposit will be held until payment is made.
- f. I agree to only operate the vehicle in the authorized areas. If the vehicle is rendered inoperable, regardless of who's fault, on any property other than a mapped and licensed area, I, the renter, will be charged any and all recovery costs to bring the vehicle back to the rental facility.
- g. **I AM RESPONSIBLE FOR ALL DAMAGE TO THE VEHICLE, INCLUDING BUT NOT LIMITED TO DAMAGE CAUSE BY WEATHER, ACTS OF GOD, OR TERRAIN CONDITIONS**

**6. VEHICLE RENTAL SCHEDULE.** *I understand and agree that:*

- a. Check-out time is no earlier than 8:30 am on specific check-out date.
- b. Check-in time is no later than 5:00 pm on specified check-in date.
- c. I am aware that there is no coverage outside of the designated ride time and I am aware that vehicle movement can be monitored 24 hours a day. I am also aware that I can be subject to punishment for operating the vehicle outside of the designated ride time.
- d. There are no refunds or discounts if I am late pick up the vehicle.
- e. I will be charged a \$60 late fee per unit if the vehicle is brought back up to one hour late of check-in. I will be charged a \$125 late fee per unit if the vehicle is brought back up to two hours late of check-in. After two full hours late, the late fee will be a full day rental charge.
- f. Outfitter will take legal action and seek prosecution if the vehicle is over 24 hours later than the specified check-in date.

**7. REFUND POLICY TERMS AND RELEASE FORM.** *I understand and agree that:*

- a. I cannot get a refund on my reservation unless I notify Outfitter 48 hours or further in advance, in which case it will be subject to forfeiture of reservation deposit funds. Any later notice will be subject to NO refund.
- b. If weather adversely affects the ability to utilize the vehicle, Outfitter is under NO obligation to issue a refund or discount.
- c. If the vehicle fails, I am REQUIRED to contact Outfitter immediately. Failure to make contact will delay or forfeit any possible refunds. Depending on the availability and circumstances of failure, Outfitter will then replace the vehicle and/or issue a refund for the portion of the day the failure occurred. If the vehicle is disabled and cannot be replaced due to lack of availability, a refund for the day of failure and/or the remainder of the rental period will be issued.
- d. If I am not satisfied with the overall experience of the trails or areas, Outfitter is in no way responsible.
- e. If I get injured during the rental period and am unable to continue my rental experience for the rental time already purchased, Outfitter is not responsible and under no obligation to issue any refunds.

**8. NON-TAMPER AGREEMENT** *I understand and agree that:*

- a. All vehicles supplied by Outfitter are properly maintained and adjusted for reliable and safe operation. All adjustments and maintenance are to be performed by individuals approved by Outfitter ONLY. Failure to comply with these rules will result in full or partial forfeiture of renter's security deposit of the vehicle.
- b. If at any time, I feel something is out of adjustment or needs attention in any way, the vehicle is to be returned to the rental facility where it can be attended to by individuals approved by Outfitter. I am aware that I am not permitted to tamper with cameras or any other devices on the vehicles. I am aware that doing so will be a violation of this rental agreement and can be subject to punishment, including but not limited to an additional \$500 charge.

**9. MISCELLANEOUS** *I understand and agree that:*

- a. I, the renter, release the Outfitter, their agents and employees from all claims for loss of, or damage to, my personal property or that of any other person, that is received, handled, stored, left, carried into, or left on the vehicle, whether or not the loss or damages was caused by Outfitter negligence or was otherwise Outfitter's responsibility.
  - b. No term of this Agreement can be waived or modified except by a writing that Outfitter has signed.
  - c. A waiver by Outfitter of any breach of this Agreement is not a waiver of any additional breach or waiver of the performance of my obligations under this Agreement. Outfitter's acceptance of payment or failure, refusal or neglect to exercise any of their rights under this Agreement does not constitute a waiver of any other provision of this Agreement. Unless prohibited by law, the renter releases the Outfitter for any liability for consequential, special or punitive damages in connection with this rental or the reservation of a vehicle.
  - d. If any provision of this Agreement is deemed void or unenforceable, the remaining provisions are valid and enforceable.
- 10. ASSUMPTION OF RISK.** I expressly and voluntarily assume all risk and liability for the loss or damage to any vehicle or other equipment obtained from Outfitter; for death or injury to any person or property and for all risks and liabilities arising from the use, conditions and possession of the vehicle and any equipment received or obtained from Outfitter.
- 11. WAIVER AND RELEASE OF CLAIMS AND COVENANT NOT TO SUE.** This Rental Agreement is entered into in conjunction with the Waiver, Consent, Release, and Hold Harmless Agreement ("Waiver").
- 12. INDEMNIFICATION.** The undersigned shall indemnify, defend (by counsel reasonably acceptable to indemnity), protect and hold Outfitter, Yamaha Motorsports and/or Polaris Industries, Inc., their subsidiaries, shareholders, directors, officers, employees, agents, successors, and assigns, free and harmless from and against any and all claims, liabilities, penalties, losses, or expenses (including attorneys' fees) for death of or injury to any person or damage to any property whatsoever arising from or caused in whole or in part, directly or indirectly, from the rental, use and/or operation, condition or possession of the vehicle or any other equipment received or obtained from Outfitter. The undersigned likewise shall indemnify Outfitter and Polaris Industries Inc., their shareholders, directors, officers, employees, agents, successors, and assigns against any losses, costs or expenses, including attorneys' fees, resulting from a breach of this agreement.
- 13. PARTIAL INVALIDITY AND CHOICE OF LAW.** Should any provision of this agreement be held by a court of competent jurisdiction to be either invalid or unenforceable, the remaining provisions of the agreement shall remain in effect. This agreement, covenant, waiver and release shall be governed and construed under the laws of the State of New York State.
- 14. EXPENSES OF ENFORCEMENT.** In the event of any legal action with respect to this agreement, the prevailing party in any such action shall be entitled to reasonable attorney fees and all costs and expenses incurred in pursuit thereof.
- 15. ENTIRE AGREEMENT, NO ORAL MODIFICATIONS.** This instrument with attachments constitutes the entire agreement between the parties. No provision hereof shall be modified or rescinded unless in writing signed by an authorized representative of Outfitter. I, the undersigned, certify that I have read the Rental Agreement and understand the contents of this document. I execute it voluntarily in good faith and with full knowledge of its significance.

**I HAVE READ THIS AGREEMENT CAREFULLY PRIOR TO SIGNING IT.**

**I UNDERSTAND, ACKNOWLEDGE AND AGREE TO ALL TERMS SET FORTH HEREIN**

Print Name: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Street Address: \_\_\_\_\_ City/State/Zip: \_\_\_\_\_

Phone #: \_\_\_\_\_ E-Mail: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**DRIVER ONLY**

Driver's License State: \_\_\_\_\_ Driver's License Number: \_\_\_\_\_

**MINOR PASSENGER ONLY**

Parent or Legal Guardian Name: \_\_\_\_\_ Date: \_\_\_\_\_

Parent or Legal Guardian Signature: \_\_\_\_\_