

**UTV RENTALS OF THE BLACK HILLS, LLC.  
UTV RENTAL AGREEMENT**

READ CAREFULLY BEFORE SIGNING. YOU ARE RESPONSIBLE FOR UNDERSTANDING AND ABIDING BY ALL THE TERMS AND CONDITIONS HEREIN.

The undersigned agrees to rent the property described below; that he/she has examined said property and found it to be in good working condition and working order and will return it in as good condition as received; that he/she will pay promptly all charges which accrue because of this rental and be responsible for any damages to said property. The undersigned agrees that he/she and all passengers shall wear a DOT or Snell-approved helmet at all times the vehicle is operated and that he/she and all passengers shall wear the supplied seat belts. The undersigned agrees to abide by the rules of designated roadways and stay on roads or forest trails.

The undersigned agrees to be responsible for all physical damage to the UTV and authorizes the holding of a valid credit card number as security to assure the payment of any physical damage to the UTV(s).

Additional terms and conditions appear on the back of this Agreement and are a part of this Rental Agreement.

Renter Name

Address

\_\_\_\_\_

All additional passenger names:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Unit rented:

Time Out: \_\_\_\_\_

\_\_\_\_\_

Time In: \_\_\_\_\_

Rental amount per hour: \$ \_\_\_\_\_ (rent is calculated to the nearest half hour) and excludes sales tax.

Rent includes provided helmets, laminated map, full tank of fuel.

Unit must be returned with a full tank of gas, or the same will be charged to Renter at the then-going rate at Custer Crossing gas station.

Charges will be assessed to Renter as follows: (a) excessive mud/trash to be cleaned up by Owner: \$100.00; (b) laminated map not returned: \$50.00; (c) helmet not returned: \$250.00 for each helmet; (d) late fees for failure to return at the expected time in: \$50.00 for each 30 minutes late; (e) cost for disabling or damaging vehicle tracker: \$100.00; (f) physical damage to the UTV: the actual cost for repair or replacement by any cause whatsoever including but not limited to excessive use at highway or near highway speeds for extended periods of time.

No refunds for early returns or bad weather.

## PARTICIPANT AGREEMENT, RELEASE AND ASSUMPTION OF RISK

In consideration of the services of UTV Rentals of the Black Hills, their agents, owners, officers, volunteers, employees, and all other persons or entities acting in any capacity on their behalf (hereinafter collectively referred to as "J&AR"), I hereby agree to release, indemnify, and discharge J&AR, 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 ATV and UTV activities entails known and unanticipated risks that could result in physical or emotional injury, paralysis, death, or damage to myself, to property, or to 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:** There is the possibility of rough terrain; passengers can be jolted, jarred, bounced, thrown about and otherwise shaken during rides; it is possible that riders could be injured if they come into contact with other passengers or equipment; injuries can be sustained from the trail, equipment or from items on the trail such as holes, bumps, ruts, obstacles, tree limbs and branches or rocks; major injuries are a risk as are bruises and sprains; musculoskeletal injuries including head, neck, and back injuries; injuries to internal organs; loss of fingers or other appendages; exhaustion; exposure to the elements of the outdoors and natural surroundings which could cause hypothermia, hyperthermia (heat related illnesses), heat exhaustion, sunburn, dehydration; and exposure to potentially dangerous wild animals, insect bites, and hazardous plant life; the negligence of other participants or persons who may be present; further, passengers can be thrown off the vehicles which can result in any of the above events occurring; accidents involving other vehicles; collision with fixed or movable objects; collisions, and flipping over; Traveling to and from activity locations raises the possibility of any manner of transportation accidents; transmissible pathogen or disease; accidents or illness can occur in remote places without medical facilities and emergency treatment or other services rendered; the machine itself may fail; and accidents can occur getting in or out.

2. Furthermore, J&AR personnel 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.

- A. 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. I agree to wear a properly fitted and secured DOT or SNELL certified helmet while participating in this activity.
- B. I hereby voluntarily release, forever discharge, and agree to indemnify and hold harmless J&AR 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 J&AR's equipment or facilities, **including any such claims which allege negligent acts or omissions of J&AR.**
- C. Should J&AR 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.
- D. 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.
- E. In the event that I file a lawsuit against J&AR, I agree to do so solely in the state of South Dakota, and I further agree that the substantive law 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.

3. **Use and Damage.** The UTV is rented "as is" and with no warranties, express or implied. Undersigned accepts full responsibility for the care of the rental UTV during the rental period. Undersigned agrees to pay for any damage that occurs to the rental UTV regardless of the circumstances under which such damage may occur. Undersigned agrees to pay for any lost rental income for the period the UTV is out of service due to damage for which Undersigned is responsible. Undersigned agrees to pay for any costs incurred in the retrieval of the rented UTV which is left on trail for non-mechanical reasons. Undersigned agrees to pay all costs, including reasonable attorney's fees, incurred by Released Parties to collect any sums due or to enforce any terms of this Agreement. Undersigned agrees to pay interest at the rate of 18% per annum on all sums owed to Released Parties. Undersigned agrees that Released Parties are authorized and shall have the right to charge Undersigned's valid credit card for any sums owed.

4. **Use of UTV.** Use of the UTV is limited to the trails on the maps provided for use by Participant. Undersigned and Participant agrees not to operate the UTV on private property and shall be solely liable for any trespass onto private property and any damage which may occur. Participant shall obey all signage and rules of using trails including speed on trails. Participant shall not cause any littering to occur and shall be solely responsible for any litter or garbage of Participant or Undersigned.

5. **Use of Image.** In consideration of participating in this event, Undersigned hereby gives the Released Parties the irrevocable right to use my picture, portrait or photograph in all forms of media, in all manners of 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 therewith.

6. **Minor Acknowledgement.** In the case of a minor Participant (under 18 years of age), 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 may otherwise have. 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 legal guardian of a minor Participant, signing adults represent, under penalty of fraud, that he/she is a parent or legal guardian of the minor Participant.

7. **Miscellaneous.** Undersigned further agrees and understands: (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 South Dakota and the exclusive jurisdiction and venue for any claim arising out of this Agreement shall be in the state courts located in Lawrence County, South Dakota; (c) This Agreement constitutes the entire agreement between the parties hereto and supersedes any and all prior written 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) Undersigned understands and acknowledges 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 remain enforceable between the parties. It is the intent of Undersigned that this Agreement shall be binding upon the assignees, subrogors, distributors, heirs, next of kin, executors and personal representatives of Undersigned; (e) Time is considered of the essence in the performance of the terms of this contract. Any other documents, including sales slips and receipts, credit card purchases, damage disclosure pre- and post-rental, photographs and other writings documenting the agreement of the parties to this Agreement are deemed to be a part of this Agreement.

8. **A note about children.** No children under the age of 5 years old **and** under 40 pounds shall be allowed to be a passenger in any rented UTV unless said child is securely placed in an age-appropriate child safety restraint system ("car seat") provided by the parent or guardian, and said safety restraint system ("car seat") is properly attached inside the UTV. All persons regardless of age shall wear seatbelts at all times the UTV is in use. No children under 16 years shall be allowed to ride in the front seat.

9. **Contact information for rental of UTV:**

UTV Rentals of the Black Hills  
PO Box 640  
Lead, SD 57754  
(605) 580-5402  
UTVrentalsoftheblackhills@gmail.com

By signing this document, I acknowledge that if anyone is hurt or property is damaged during my participation in this activity, I may be found by a court of law to have waived my right to maintain a lawsuit against J&AR on the basis of any claim from which I have released them herein. I also agree that this document is valid for subsequent visits and participation at J&AR. 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.

Print Name \_\_\_\_\_ DOB \_\_\_\_\_ Phone Number \_\_\_\_\_

Address \_\_\_\_\_ City \_\_\_\_\_

State \_\_\_\_\_ Zip \_\_\_\_\_ Email \_\_\_\_\_

Signature of Participant \_\_\_\_\_ Date \_\_\_\_\_

**PARENT’S OR GUARDIAN’S ADDITIONAL INDEMNIFICATION  
(Must be completed for participants under the age of 18)**

In consideration of the following minor(s): (printed name(s))  
\_\_\_\_\_

Being permitted by J&AR to participate in its activities and to use its equipment and facilities, I further agree to indemnify and hold harmless J&AR 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). Minor(s) DOB(s) \_\_\_\_\_

Parent or Guardian \_\_\_\_\_ Print Name \_\_\_\_\_ Date \_\_\_\_\_

**PROTECTIVE RIDING HEADGEAR REFUSAL AGREEMENT**

I, the undersigned, have been fully warned and advised by UTV Rentals of the Black Hills (hereinafter collectively referred to as "J&AR"), 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 J&AR's premises) 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 J&AR 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.**

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Name of Rider

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Signature of Rider

Date