

# SMUGGLERS RUNS LLC

## RELEASE OF LIABILITY AND ASSUMPTION OF RISK AGREEMENT

The individual named below (referred to as “I”, “me”, or “you”) desires to participate in an activity (the “Activity”) provided, sponsored, or otherwise organized by SMUGGLERS RUN LLC, a Utah limited liability company (the “Company”). In consideration of being permitted by the Company to participate in the Activity, whether as a driver, passenger or otherwise, and in recognition of the Company’s reliance hereon, I, the undersigned, for myself, my personal representatives, assigns, heirs and next of kin, and as guardian representative for any minor identified herein, do hereby agree to all the terms and conditions set forth in this Release of Liability and Assumption of Risk Agreement (this “Agreement”).

### PHYSICAL REQUIREMENTS

I, acknowledge, agree and represent that:

- I am the parent, legal guardian or authorized representative of the following named minor (if any) participating in the Activity, and have the legal right to consent to, and do hereby consent to, the terms and conditions of this Agreement for said minor:  
\_\_\_\_\_.
- I, and the named minor, are in good health and in proper condition to participate in the Activity.
- I, and the named minor, have no pre-existing medical or physical condition incompatible with full participation in the Activity.

### ASSUMPTION OF RISK

I am aware and understand that the activity is an inherently dangerous activity and involves the risk of serious injury, disability, death, and/or property damage, both foreseeable and unforeseeable. I acknowledge that any injuries that I sustain may result from or be compounded by the actions, omissions, or negligence of myself, others participating in or otherwise attending the Activity, and/or the Company, including but not limited to negligent emergency response or rescue operations of the Company. Notwithstanding the risk, I acknowledge that I am voluntarily participating in, and am allowing the named minor to participate in, the Activity with knowledge of the danger involved, and I hereby agree to accept and assume any and all risks of injury, disability, death, and/or property damage arising from participation in the Activity, whether caused by the ordinary

negligence of the Company or otherwise, for myself as well as for the named minor.

#### **WAIVER AND RELEASE OF LIABILITY**

I, for myself and the named minor, hereby expressly waive and release any and all claims, now known or hereafter known, against the Company, and its officers, managers, members, employees, agents, affiliates, successors, and assigns (collectively the "Releasees"), on account of injury, disability, death, or property damage arising out of or attributable to participation in the Activity, whether arising out of the ordinary negligence of the Company or any Releasees or otherwise. I, for myself and the named minor, further covenant not to make or bring any such claim against the Company or any other Releasee, and forever release and discharge the Company and all other Releasees from liability under such claims.

#### **INDEMNIFICATION**

I shall defend, indemnify, and hold harmless the Company and all other Releasees against any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including attorneys' fees, fees, the costs of enforcing any right to indemnification under this Agreement, and the cost of pursuing any insurance providers, incurred by the Company or any other Releasees, arising out or resulting from any claim of a third party related to participation in the Activity, including any claim related to my own negligence or the ordinary negligence of the Company. I agree that if, despite this Agreement, I, or anyone on my behalf, on behalf of my estate, or on behalf of the named minor makes a claim against any of the Releasees, I or my estate shall indemnify, save, anticipate all litigation costs for, and hold harmless each of the Releasees from any litigation expense, attorney fees, loss, liability damage, or cost which any may incur as the result of such claim.

#### **MEDICAL TREATMENT**

I, for myself and the named minor, hereby consent to receive medical treatment for myself and the named minor that may be deemed necessary if I or the minor are injured or require medical attention during participation in the Activity. I understand and agree that I am solely responsible for all costs related to such medical treatment and any related medical transportation and/or evacuation. I hereby release, forever discharge, and hold harmless the Company from any claim based on such treatment or other medical services.

#### **CONSENT TO USE NAME AND LIKENESS; PUBLICITY WAIVER AND RELEASE**

I, for myself and the named minor, hereby irrevocably permit, authorize, grant, and license Company and its affiliates, successors, and assigns, and their

respective licensees, advertising agencies, promotion agencies, and fulfillment agencies, and the employees, officers, directors, members, managers, and agents of each and all of them (“Authorized Persons”), the rights to display, publicly perform, exhibit, transmit, broadcast, reproduce, record, photograph, digitize, modify, alter, edit, adapt, create derivative works, exploit, sell, rent, license, otherwise use, and permit others to use my name, image, likeness, and appearance, voice, and other personal characteristics and private information, and all materials created by or on behalf of Company that incorporate any of the foregoing (“Materials”) in perpetuity throughout the universe in any medium or format whatsoever now existing or hereafter created, including but not limited to, in and on magazines, brochures and other print publications, electronic, magnetic, and optical media, display, point-of-sale, and other advertising and promotional materials, press releases, the internet and other digital transmission or delivery methods, mobile applications, on any platform and for any purpose, including but not limited to advertising, public relations, publicity, packaging, and promotion of the Company and its affiliates and their businesses, products, and services, without further consent from or royalty, payment, or other compensation to me.

I agree that the Company shall be the exclusive owner of all rights, including copyright, in the Materials. I hereby irrevocably transfer, assign, and otherwise convey to Company my entire right, title, and interest, if any, in and to the Materials and all copyrights and other intellectual property rights in the Materials arising in any jurisdiction throughout the universe in perpetuity, including all registration, renewal, and reversion rights, and the right to sue to enforce such copyrights against infringers. I acknowledge and agree that I have no right to review or approve Materials before they are used by Company, and that Company has no liability to me for any editing or alteration of the Materials or for any distortion or other effects resulting from Company’s editing, alteration, or use of the Materials, or Company’s presentation of me. Any credit or other acknowledgment of me, if any, shall be determined by Company in Company’s sole discretion. Company has no obligation to create or use the Materials or to exercise any rights given by this Agreement.

To the fullest extent permitted by applicable law, I hereby irrevocably waive all legal and equitable rights relating to all liabilities, claims, demands, actions, suits, damages, and expenses, including but not limited to claims for copyright or trademark infringement, infringement of moral rights, libel, defamation, invasion of any rights of privacy (including intrusion, false light, public disclosure of private facts, and misappropriation of name or likeness), violation of rights of publicity, physical or emotional injury or distress, or any similar claim or cause of action in tort, contract, or any other legal theory, now known or hereafter known in any jurisdiction throughout the world (collectively, “Claims”), arising directly or indirectly from the Authorized Persons’ exercise of their rights under this Agreement or the production, exhibition, exploitation, advertising, promotion, or other use of the Materials, and whether resulting in whole or in part from the

negligence of Company or any other person, and I hereby covenant not to make or bring any such Claim against any Authorized Persons and forever release and discharge the Authorized Persons from liability under such Claims.

## **CONDITIONS TO PARTICIPATION**

I acknowledge, accept and agree to abide by the following conditions to participation in the Activity:

- I **MUST** complete and sign this Agreement.
- I **MUST NOT** compete in any manner with other participants.
- I **MUST NOT** place any bets of any kind in relation to the Activity.
- I **MUST** drive safely and with proper courtesy to all other participants and members of the public.
- I **MUST NOT** drive if my ability to do so safely and properly is in any way compromised by illness, lack of adequate rest, medical intoxication, the influence of illegal substances, or any other condition that will put me and other participants in the Activity, the general driving public, pedestrians, and any other persons or property at risk in any way whatsoever.
- I **MUST** comply with all applicable laws and regulations of the city, county, state and country in which I am present at any given time during the Activity, including but not limited to all speed regulations, laws of the road, laws relating to the safety and operation of my vehicle, laws relating to registration of my personal vehicle, laws relating to my personal license to operate a vehicle, insurance laws relating to my operation of my personal vehicle, and laws relating to the possession or use of alcohol, drugs or other prohibited substances.
- I understand that the Activity is open to all makes, models and years of vehicles, but understand that the majority of vehicles will be “OFF-ROAD HIGH CLEARANCE” vehicles. I accept that the Company looks for a diverse, unique collection of high-end vehicles, and that there is no guarantee of acceptance with respect to available spots.
- I **MUST** obtain and maintain appropriate insurance covering my participation in the Activity and shall provide proof of such insurance in a form satisfactory to the Company if requested. Appropriate insurance includes, without limitation, third party liability, liability coverage for each participant, medical insurance, damage to property and life insurance, and insurance covering my vehicle’s participation in the Activity.

- I **MUST** have a legal and valid vehicle registration with my name matching my vehicle.
- I **MUST** hold a current, valid and unrestricted driver's license from a state within the United States and present it upon registration. I may also use an International Driving Permit.
- I **MUST** be completely sober while operating any motor vehicle, and I **MUST NOT** consume alcohol while driving nor drive under the influence of alcohol or any other intoxicating substance at any time.
- I **MUST** have the Company's logo and any other logos designated by the Company, including but not limited to official sponsors, attached to my vehicle during the entire Activity, and not obscure or alter such logos and must keep them clean and readily visible at all times during the Activity.
- I understand that there will be **NO REFUNDS** should I cancel my participation in the Activity unless otherwise deemed acceptable to receive a refund by the Company, in its sole and absolute discretion. After the commencement of the Activity, I understand that the Company will **NOT** make any refund of the entry fee or compensate me if I am unable to continue in the Activity for any reason whatsoever.
- I understand that although all vehicles have sufficient time to arrive at each destination, the route is demanding. If I cannot manage to complete any part of the route and am unable to stay at the provided venues, I will **NOT** be entitled to any refund of the entry fee whatsoever.
- I accept that the Company reserves the right to refuse participation in or to cancel the Activity at any time for any reason whatsoever. Only in case of the cancellation of the Activity, refunds will be returned to all teams that have paid the entry fee on or before the date of the cancellation.
- I have no right to use the "SMUGGLERS RUNS LLC" logo or any other logos designated by the Company for placement on my vehicle during the Activity for any purpose whatsoever (other than placing the logo on my vehicle during the Activity) without obtaining the prior written consent of the Company. In particular, I have no right to use the "SMUGGLERS RUNS LLC" logo and any other logos designated by the Company for placement on my vehicle during the Activity on any website or in any printed materials without obtaining the Company's prior written consent. I have no right to arrange or conduct any media appearances relating to my participation in the Activity without obtaining the prior written consent of the Company.
- I accept that the Company reserves the right to change these conditions to participation in the Activity from time to time subject to notifying me of the

changes, and that I shall be deemed to have accepted the amended by participating in the Activity.

- I understand that while the Company will endeavor to keep my personal information secure, the Company does not accept any responsibility should loss or theft of this information occur. I consent to my personal information being released to third parties that the Company deems appropriate.
- I agree to accept the Company's reservation of right to prohibit me from participating further in the Activity for any single violation of the foregoing conditions to participation or of any terms and conditions contained herein.

#### **CHOICE OF LAW; FORUM**

All matters arising out of or relating to this Agreement shall be governed by and construed in accordance with the internal laws of the State of Utah without giving effect to any choice or conflict of law provision or rule (whether of the State of Utah or any other jurisdiction). Any claim or cause of action arising under this Agreement that is not subject to the Arbitration Clause herein may be brought only in the federal and state courts located in Salt Lake County, Utah, and I hereby consent to the exclusive jurisdiction of such courts.

#### **ARBITRATION CLAUSE**

I agree that:

- Any dispute or difference of any kind whatsoever arising out of, relating to or in connection with this Agreement whether in contract, tort, statutory, or otherwise, including any questions as to the existence, scope, validity, breach or termination of this Agreement in its entirety or part, shall be finally settled by binding arbitration, conducted pursuant to the American Arbitration Association (AAA) rules by a single person panel.
- Arbitration shall be held in Salt Lake City, Utah, unless otherwise agreed between the parties. The arbitrators shall apply law identified in the Choice of Law provision of this Agreement. The costs of arbitration shall be equally divided among the parties.
- This provision shall be binding upon me, the named minor if a party to the dispute, as well as our representatives, executors, estates, heirs and next of kin.
- Arbitration involves the waiver of the right to a jury trial. By executing this Agreement, I agree to be bound by the provisions of this Arbitration Clause, and agree to waive my right to a trial in a court of law.

**INTEGRATION, SEVERABILITY, SUCCESSORS AND ASSIGNS**

**This Agreement constitutes the sole and entire agreement of the Company and me, for myself and the named minor, with respect to the subject matter contained herein and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, with respect to such subject matter. If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. This Agreement is binding on and shall inure to the benefit of the Company and me, for myself and the named minor, and their respective successors and assigns.**

**BY SIGNING BELOW, I UNDERSTAND THAT I AM ENTERING INTO A LEGALLY BINDING AGREEMENT WITH THE COMPANY, AND I ACKNOWLEDGE THAT I HAVE READ AND UNDERSTOOD ALL OF THE TERMS OF THIS AGREEMENT AND THAT I AM VOLUNTARILY GIVING UP SUBSTANTIAL LEGAL RIGHTS, INCLUDING THE RIGHT TO SUE THE COMPANY.**

**Signed:**

\_\_\_\_\_

**Printed Name:**

\_\_\_\_\_

**Address:**

\_\_\_\_\_

\_\_\_\_\_

**Date:** \_\_\_\_\_