

Swiss Valley Assumption of Risk, Waiver of Liability, and Indemnification Agreement

Swiss Valley Operations, LLC. (hereafter referred to as SV) is a recreational snow sports operation and facility that provides recreational opportunities that include, but are not limited to skiing and snowboarding. We want you to understand that our sports, like other recreational activities, include inherent risks that can never be eliminated regardless of how much emphasis we place on reducing risk.

Definitions: MINOR PARTICIPANT - a child over whom the adult signing this document 1) has guardianship (including a parent) or 2) has assumed responsibility. RESPONSIBLE ADULT – an adult who has responsibility for one or more MINOR PARTICIPANTS.

Inherent Risks: SV feels it is important that any person on premises and all participants (ADULT PARTICIPANTS or MINOR PARTICIPANTS and/or RESPONSIBLE ADULTS) understand the nature of our sports and are aware of, understand, and appreciate the inherent risks involved. Also, Skiers and snowboarders are governed by the Michigan Ski Area Safety Act (Public Act 199 of 1962, MCL §408.321 et seq.), which defines the duties and responsibilities of skiers and ski area operators, and recognizes that there are inherent risks associated with the sport of skiing that are assumed by the skier.

- Skiing and snowboarding risks include, but are not limited to, **collisions** (with other skiers/snowboarders; with stationary objects [such as trees, rocks, and stumps; forest growth and debris; lift towers, fences, signs, and snowmaking equipment]; snow vehicles, and other obstacles, whether manmade or natural); **falls and awkward landings** (due to losing balance or control; or resulting from a failed jump or maneuver); **fatigue & over-exertion; loss of control** (due to inexperience; due to adverse surface conditions [such as: bare spots and black ice; moguls and terrain features; variations in surface and terrain conditions; quickly changing surface and terrain conditions; snow slides]; due to slope design or modifications; and/or due to other marked and unmarked hazards, both manmade and natural); and **lift-related incidents** (such as: mechanical failures of chairlifts, rope tows, or surface conveyor lifts; falls while boarding or disembarking lifts, or improper use of lift equipment).
- Other inherent risks of skiing and snowboarding include, but are not limited to: **behavioral factors** (erratic or negligent actions of the participant or other participants); **environmental conditions** (sudden changes in weather or weather-related occurrences; acts of nature that can unexpectedly affect conditions or visibility); **equipment issues** (failure of personal or rental equipment); **staff judgment errors** (misjudgment of participants' abilities; failure to anticipate developing problem situations; inadequate response to sudden changes in weather conditions); and **exposure to elements** (conditions which may affect comfort, visibility, or safety; fog; lightning; high wind).
- Risks of observing and being on the premises for all persons include, but are not limited to: **proximity hazards** (standing too close to areas where participants approach, particularly run-out areas; being too close to wildlife or domesticated animals); **impact risks** (being struck by skis, poles, snowboards, tubes, or other equipment; collisions with out-of-control skiers, snowboarders, or tubers); **slip and fall incidents** on slick, wet, icy, or uneven surfaces, both outdoors and indoors, including restrooms and other indoor areas; **slippery or uneven conditions** on sidewalks, steps, and other outdoor surfaces; **various parking lot hazards** such as vehicle traffic hazards, and uneven or slippery footing; **negligence** of SV or by SV staff; and **exposure to infectious diseases**.

It is important that any person on premises and all participants (ADULT PARTICIPANTS, MINOR PARTICIPANTS and/or RESPONSIBLE ADULTS) understand that injuries can occur as the result of these inherent risks, which include, but are not limited to muscle strains and sprains, bruises, contusions, abrasions, lacerations, sunburn, frostbite, muscle soreness, fractured or broken bones, ligament and joint injuries, shoulder dislocation, back and neck injuries, concussions, internal injuries, eye injuries, dental injuries, brain injury, spinal cord and back injuries, heart attack, stroke, and even death. Skiers have duties under Michigan law to ski in control, maintain a proper lookout, and heed all signs and warnings.

ASSUMPTION OF INHERENT RISKS: I, the ADULT PARTICIPANT or MINOR PARTICIPANT(S) and/or RESPONSIBLE ADULT, have read the above paragraphs (or had the risks explained to me) and understand that SV ski, and snowboarding activities contain inherent risks which vary with the activity. I acknowledge the above descriptions of risks are examples and that other unforeseeable or unlisted risks are also inherent in snow sports. I understand the demands of those activities relative to my physical condition and skill level, and I understand the types of injuries that may occur as a result of SV activities and their potential impact on my well-being, lifestyle, and both current and potential future careers. **I hereby assert that my participation is voluntary and that I knowingly assume all inherent risks.**

WAIVER OF LIABILITY: In consideration of permission for myself to use the SV property, facilities, and services, I, the ADULT PARTICIPANT, on behalf of myself, my spouse, my heirs, personal representatives, assigns, or others making a claim on behalf of myself [hereafter referred to as *Releasing Parties*] **do hereby release, waive, discharge, and covenant not to sue SV**, its owners, directors, officers, employees, members, lessors, lessees, volunteers, independent contractors, equipment providers, and agents, [hereafter referred to as *Protected Parties*] from liability **from any and all claims arising from 1) the NEGLIGENCE** of SV or other *protected parties* (except that, this Agreement does not purport to relieve SV from its responsibilities under The Michigan Ski Area Safety Act, Public Act 199 of 1962, MCL §408.321 et seq.); and/or **2) the selection, installation, maintenance, adjustment, rental, or use of rental equipment;** and/or **3) the presence** of myself on the premises of SV. I acknowledge and assume the inherent risks on behalf of the MINOR PARTICIPANT and agree to indemnify and hold harmless the Protected Parties from any claims arising from the MINOR PARTICIPANT'S actions or participation, to the fullest extent permitted by Michigan law.

This Assumption of Risk, Waiver of Liability, and Indemnification Agreement applies, but is not limited to, any and all of the following:

- Illnesses, personal injury (including death), and/or economic loss to the ADULT PARTICIPANT and/or RESPONSIBLE ADULT arising from participation in SV activities (including, but not limited to instructional classes; private instruction; independent skiing and snowboarding; use of rental equipment; use of ski lifts, rope tows, and surface conveyor lifts; competitive events; terrain parks; observation; individual use of facilities or equipment; locker room area; cafeteria area; ski rental area; retail shop; administrative area; restrooms; and all premises including the equipment/maintenance areas, sidewalks, steps, roadways and parking lots)
- Any and all claims resulting from the damage to, loss of, or theft of property.
- The release of SV from any claims and rights that I 1) now have against SV and/or 2) may have in the future against SV based upon events occurring on or before the date that this Agreement is entered into.

INDEMNIFICATION AGREEMENT: I, the ADULT PARTICIPANT and/or RESPONSIBLE ADULT, **agree to hold harmless, defend, and indemnify SV and Protected Parties** (that is, defend and pay any judgment and costs, including investigation costs, attorney's fees and related expenses)

- from any and all claims by or on behalf of MINOR PARTICIPANT arising from an injury or loss suffered by MINOR PARTICIPANT due to MINOR PARTICIPANT'S participation or presence at SV (including claims arising from the **inherent risks** of SV activities; the **NEGLIGENCE** of SV or *Protected Parties*; and/or the use of rental equipment).
- from any claims for loss by third parties where such claims purport to be based in whole or in part on the conduct of myself or MINOR PARTICIPANT in the course of our presence at SV

Clarifying Clauses:

- I, the ADULT PARTICIPANT and/or the RESPONSIBLE ADULT, understand that this agreement between myself and SV cannot be modified or changed in any way by representations or statements by any agent or employee of SV.
- I also understand that if legal action is brought, the Circuit Court for St. Joseph County, Michigan, or the United States District Court for the Western District of Michigan, Southern Division has the sole and exclusive jurisdiction and that only the substantive **laws of the State of Michigan** shall apply.
- I further expressly agree that the foregoing Assumption of Risk, Waiver of Liability, and Indemnification Agreement is intended to be as broad and inclusive as is permitted by **the laws of the State of Michigan** and that **if any portion thereof is held invalid**, it is agreed that the balance shall, notwithstanding, continue in full legal force and effect.

I, the ADULT PARTICIPANT and/or the RESPONSIBLE ADULT **certify the following:**

- I and (if applicable) MINOR PARTICIPANT possesses a sufficient level of skill and physical fitness for participation in SV activities.
- I and (if applicable) MINOR PARTICIPANT have no health problems that would increase risk of injury during participation in SV activities.
- I acknowledge that SV encourages each participant to get medical clearance prior to participation.
- I acknowledge that I and (if applicable) MINOR PARTICIPANT have a duty to cease activity immediately and inform staff if we feel any unusual discomfort or become injured during participation.
- I will obey all rules (including the 'Your Responsibility Code' and/or the terrain park 'Smart Style' program when skiing and/or snowboarding) and will do my utmost to ensure that MINOR PARTICIPANT does the same. I will alert the staff to any rules violations or dangerous behavior of co-participants.
- I will attempt only activities that I feel capable of performing without increased risk of injury. I will do my utmost to ensure that MINOR PARTICIPANT does the same.
- I will obey all posted signs and stay out of prohibited areas. I will do my utmost to ensure that MINOR PARTICIPANT does the same.
- I acknowledge that SV has authority to end my participation or the participation of MINOR PARTICIPANT if it presents a danger to myself and/or others.
- I authorize SV to secure and/or administer emergency first aid, CPR, and use an AED when deemed necessary.
- I authorize SV to secure emergency medical care or transportation when deemed necessary, and I agree to assume all costs of emergency medical care and transportation. On-site medical assistance may be limited; participants are responsible for seeking additional medical care as needed.
- I agree to inform SV of any injury (even minor injuries) prior to leaving the SV facility.
- I give permission to SV to use any photographs, images, or likenesses taken of myself, and/or the MINOR PARTICIPANT(S) in its marketing brochures, ads, videos, or other media.

ACKNOWLEDGEMENT OF UNDERSTANDING: I, the ADULT PARTICIPANT and/or RESPONSIBLE ADULT, have read this Assumption of Risk, Waiver of Liability, and Indemnification Agreement and fully understand its terms. If applicable, I have explained the risks to MINOR PARTICIPANT. **I understand that I am giving up substantial rights that might belong to me** including:

- 1) my right as an ADULT PARTICIPANT to recover damages for any loss I may suffer resulting from my illness, injury or death resulting from participation at SV;
- 2) my right as a RESPONSIBLE ADULT to recover damages for any loss I may suffer resulting from injury to or death of one or more MINOR PARTICIPANTS.

I further acknowledge that I am signing the agreement freely and voluntarily, and intend my signature to be a **complete and unconditional release of all liability for myself**, due to 1) **negligence** of SV and the other *Protected Parties* or to 2) the **inherent risks** of SV activities, to the greatest extent allowed by law in the State of Michigan.

Further, I, the RESPONSIBLE ADULT, assert that 1) I have explained the risks of the activity to the MINOR PARTICIPANT(S), and that to the best of my understanding, the MINOR PARTICIPANTS understand and are willing to encounter those risks.

FOR ADULT PARTICIPANTS:

_____ Name of Adult Participant #1 (Please Print)	_____ Signature of Adult Participant #1	_____ Date	_____ Birthdate
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_____ Name of Adult Participant #2 (Please Print)	_____ Signature of Adult Participant #2	_____ Date	_____ Birthdate
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FOR MINOR PARTICIPANTS:

I certify that I am the parent, legal guardian, and/or an adult responsible for said MINOR PARTICIPANT(S) listed below, and by my signature agree to be bound by the terms of this agreement:

_____ Name of RESPONSIBLE ADULT (Please Print)			_____ Signature of RESPONSIBLE ADULT			_____ Date					
_____ Name of Minor Participant #1			_____ Date of Birth		_____ Age	_____ Name of Minor Participant #2			_____ Date of Birth		_____ Age
_____ Name of Minor Participant #3			_____ Date of Birth		_____ Age	_____ Name of Minor Participant #4			_____ Date of Birth		_____ Age